



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

### Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

### About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>

THE  
NEW PRACTICE  
OF  
THE COURT OF CHANCERY,

AS REGULATED

BY THE ACTS

*For the Improvement of the Jurisdiction of Equity,*  
15 & 16 VICT. c. 86;

*For Abolishing the Office of Master,*  
15 & 16 VICT. c. 80;

*For Relief of the Suitors,*  
15 & 16 VICT. c. 87;

AND

*The General Orders of Court;*

WITH

*INTRODUCTION, NOTES, TO THE ACTS,*

*THE NEW GENERAL ORDERS,*

AND

*A COPIOUS INDEX.*

BY JAMES O'DOWD, ESQ.,

BARRISTER AT LAW.

LONDON:

Cw. U.K.

X585

026 a1.

WORTHES, 7, FLEET STREET,  
Law Booksellers and Publishers.

1852.

L. L.

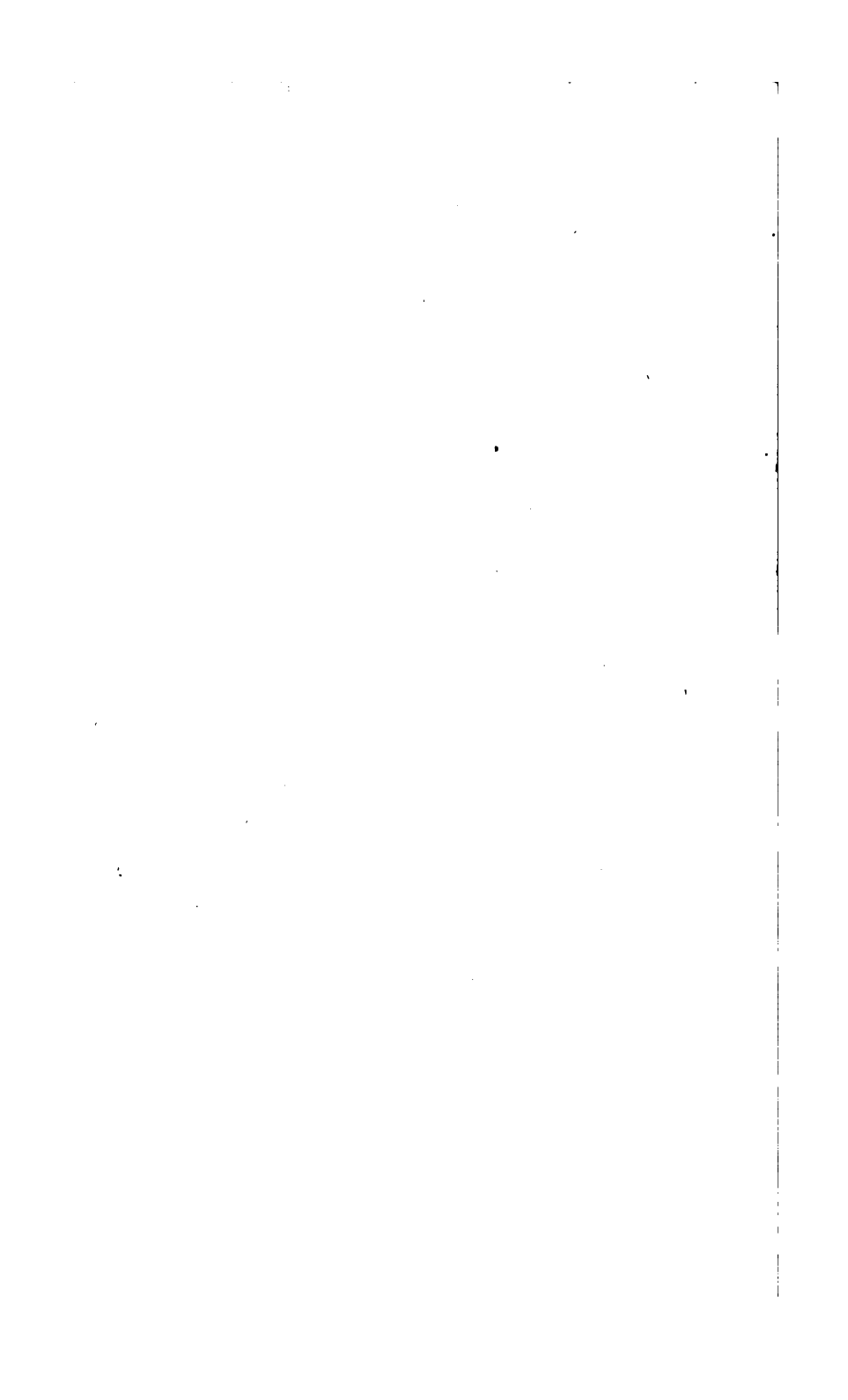
L. Eng. A. 23 e. 173

CW. H. K.

X 585

026 a 1





THE  
NEW PRACTICE  
OF  
THE COURT OF CHANCERY,

AS REGULATED

BY THE ACTS

*For the Improvement of the Jurisdiction of Equity,*  
15 & 16 VICT. c. 86 ;

*For Abolishing the Office of Master,*  
15 & 16 VICT. c. 80 ;

*For Relief of the Suitors,*  
15 & 16 VICT. c. 87 ;

AND

*The General Orders of Court :*

WITH

*INTRODUCTION, NOTES, THE ACTS,*

THE NEW GENERAL ORDERS,

AND

A COPIOUS INDEX.

---

By JAMES O'DOWD, ESQ.,

BARRISTER AT LAW.

---



LONDON :  
BUTTERWORTHS, 7, FLEET STREET,  
Law Booksellers and Publishers.

1852.

**L O N D O N :**  
**PRINTED BY C. ROWORTH AND SONS,**  
**BELL YARD, TEMPLE BAR.**

TO  
THE RIGHT HONOURABLE  
SIR JOHN ROMILLY,  
MASTER OF THE ROLLS,  
&c. &c. &c.,  
IN ADMIRATION OF  
HIS EMINENT JUDICIAL QUALITIES  
AND  
HIS EARNEST AND ENLIGHTENED EXERTIONS  
TO AMEND THE LAW  
AND  
IMPROVE THE ADMINISTRATION OF JUSTICE,  
*The Following Pages*  
ARE MOST RESPECTFULLY INSCRIBED  
BY  
THE AUTHOR.





## P R E F A C E.

---

No apology can be necessary for the publication of these pages. The convenience of an early issue of the new Chancery Statutes and the General Orders in a compendious form, and with the usual aids to reference, will not, it is hoped, be denied. It would have been easy to compile a treatise of more apparent pretension. The size could have been enlarged by the introduction of a succession of comments, contrasting the new system with that which it supersedes. But this would serve only to perpetuate impressions of the past, which it becomes obviously essential to obliterate rather than reproduce. Another expedient might have been resorted to for the purpose of gaining some reputation amongst the undiscerning. The author could have pressed into the service of the new acts an array of cases, decided under the departed *régime*. This, too, would ill accord with the simplicity of his design, and he hopes to be pardoned for adding, the conscientiousness of his intention, which aims at no more than is indicated in the title-page. Whether he shall hereafter undertake the more responsible task, which the accumulation of judicial decisions under the new acts, and those immediately preceding them, may render necessary, and to which he would gladly

dedicate a portion of his leisure, will in a great measure depend upon the indulgence that may be extended to the present unpretending volume.

It remains to be added, that the substance of the General Orders has been, as far as possible, incorporated with the analysis of the sections of the statute to which they relate. The seven additional Orders of Court are not introduced into the preliminary part of the Treatise, because of their being not strictly connected with, or dependent upon, any particular provisions of the Acts themselves. These latter Orders may, therefore, be generally referred to as relating to the time within which an appeal shall be allowed from a decree, order or dismissal, or a rehearing of the case on which such decree, order, or dismissal is founded—to the time within which decrees, orders and dismissions shall be enrolled—to the mode in which the order of the court may be obtained for such enrolment after the prescribed time shall have elapsed—to the entering of caveats against such enrolment, their prosecution within a limited number of days, and the consequence of not prosecuting them—to the time beyond which no enrolment of any decree, order or dismissal shall under any circumstances be allowed; and lastly, to the power of the Lord Chancellor, whether sitting alone, or with the Lords Justices, to enlarge the periods appointed for a rehearing, an appeal, or an enrolment.

# CONTENTS.

## THE INTRODUCTION.

15 & 16 VICT. c. 86.

### CHAPTER I.

#### THE BILL.

Bills of complaint—To be printed—Abolition of writ of subpcena—And of writ of summons—In lieu thereof printed bill or claim to be served—Convenience of the new practice—When a written copy may be served—Plaintiff's solicitor to supply copies of—Amendment, when to be made by interlineations—Direction of General Orders in respect of amendments—When reprint necessary—The printing of a bill or claim experimental—Requirements of the act as to the new forms of equity pleading—Abolition of the interrogating part of the bill—Interrogatories not done away with as a separate part of the procedure—Authority of next friend to be given before his name be used as plaintiff in any suit—Recent decision as to costs where next friend's name was used without such authority—Fees of solicitors under the new General Orders .. .. . page 1

### CHAPTER II.

#### THE ANSWER.

The form and contents of an answer—May be filed notwithstanding that the plaintiff does not require it—So also a plea and demurrer—May set forth statements which the defendant considers material to his case—After expiration of time for filing, plaintiff may move for a decree—Exceptions to answer for impertinence abolished—But without prejudice to an application to the Court, where impertinent matter shall be introduced—Order for production of documents by plaintiff—Interrogatories for examination of plaintiff—Cross bill may be filed instead—Order for production of documents by defendant—Commissions to take pleas, answers, disclaimers and examinations abolished—Testimony of the Chancery Commissioners to the utility of such abolition—How pleas, answers, examinations, &c., are to be taken in Scotland, Ireland and the colonies—Joining issue—Dismissing bill for want of prosecution—General Orders as to dismissal .. .. . 7

## CHAPTER III.

## THE EVIDENCE.

Outline of the former mode of taking evidence—Opinion of the Chancery Commissioners as to its disadvantages—Practical difficulty of a *viva voce* examination before the judges—Recommendation of the Commissioners—Provisions of the act strictly conformable thereto—May be taken orally or by affidavit, at the option of a plaintiff—Mode of taking it—To be taken in the presence of the parties, their counsel and solicitors—Difficult duties imposed by the act on the Examiner—When he shall take down the objections of a witness to answer—Where objections are to be transmitted—Demurrer to questions not to be set down in future for argument as under the old practice—Examinations to be sent to the Record Office—Copies of such examination to be obtained on payment for same—Commissions for examination abolished—When affidavits may be used on the hearing—Form and requisites of affidavits—When evidence on both sides shall be closed—Cross-examination of witnesses by affidavit—When such witness may be examined orally—Examination of witness by the court for its own satisfaction—Subpœna requiring attendance of witness—Evidence subsequent to the hearing—The new General Orders in respect of evidence .. .. . page 13

## CHAPTER IV.

## PARTIES.

The old rule as to parties—Comment of the Chancery Commissioners thereon—New rules—Setting down cause on objection for want of parties—In what cases it will be no longer necessary to raise a personal representative of an estate—No preliminary pleading henceforward requisite to have personal estate administered—An order for such purpose to be made on summons—Form of summons under new General Orders—How summons must be served—A corresponding summary proceeding to have real estate administered—Power of ordering a sale in foreclosure suits—Inconvenience of the former practice—Misjoinder of plaintiffs—Suit not to be objected to on the ground that it seeks a declaratory decree—Inconvenience of the old rule—The court to have the power to decide between some parties without making others interested parties to the suit .. 19

## CONTENTS.

ix

### CHAPTER V.

#### ABATEMENT.

Abatement of suit—Bill of revivor and supplemental bill no longer necessary—An order to revive to be obtained on allegation of transmission of interest—Description given by the Chancery Commissioners of the expense attending the former practice—Inconvenience of the old mode of taking accounts—Remedy for amending the same—Books of accounts to be taken as *prima facie* evidence of the contents—Sale may be directed after institution of suit—Abstracts of title before sale—Power to allow parties interested in property, the subject of litigation, a portion or the whole of the income—New practice as to injunctions to stay proceedings at law—Reasons assigned by the Chancery Commissioners for the change—The Court not to send cases for the opinion of a court of law—Legal title to relief to be decided by the Courts of Equity—General Orders to be framed for carrying the act into effect—Increase of salaries of Examiners .. .. . page 24

15 & 16 VICT. c. 80.

### CHAPTER VI.

#### ABOLITION OF THE MASTERS' OFFICES.

Abolition of the Masters' offices—Various opinions thereupon—Recommendation of the Chancery Commissioners—Mr. James Stewart's opinion in his late work "Suggestions as to Reform in the Law"—The judges to determine many matters hitherto disposed of by the Masters—The judges to sit at chambers—To be assisted by the chief clerks—No formal report to be henceforward necessary—When judges may take the opinion of a conveyancing counsel—Retirement of Masters James William Farrer and William Brougham—Option to the other Masters to retire according to seniority—Compensation allowances to Masters—Winding up pending proceedings—No fresh reference to be made to Masters—The new practice at chambers to commence at the beginning of Michaelmas Term, 1852—Times of sitting at chambers—Powers of the judges to be the same as at open court sittings—Orders in chambers to be drawn up by the chief clerk—Appointment and qualifications of chief clerks—Junior clerks—Removal of chief or junior clerks—Shall be under the control of the judges .. .. . 29

## CHAPTER VII.

## BUSINESS TO BE DONE IN CHAMBERS.

General class of business at chambers—Proceeding at chambers to be by summons—Duties and powers of chief clerks—Result of proceedings before chief clerk to be in the form of a short certificate—No formal report to be made, unless when the judge shall so direct—No exceptions to lie to certificate or report—Jurisdiction of Masters under the Chancery Regulation Act—Judges to have the powers now exercised by the Masters—General rules and orders to be framed by the Lord Chancellor and judges, and business to be done conformable thereto—Power to take the opinion of conveyancing counsel—Liberty to parties to object thereto—Conveyancing counsel—Court may take the opinion of accountants, &c.—Fees to conveyancing counsel—Salaries and compensations on retirement of chief and junior clerks—Appointment of Masters and chief clerks to other offices—Power to retired Lord Chancellor to send in written judgments after resignation .. .. . page 34

—♦—  
15 & 16 VICT. c. 87.

## CHAPTER VIII.

## ABOLITION OF PRESENT FEES.

Substitution of fixed salaries for fees now received by officers of the Courts—When existing mode of payment shall cease—Allowances to clerks of the Court for copies of proceedings to be discontinued—Collection of new fees by means of stamps—*Ad valorem* payments on the income of lunatics—Salary of Lord Chancellor, the Lords Justices and the last-appointed of the Vice-Chancellors—Future allowances to the Accountant-General—Rights of Accountant-General as Master not to be affected—Brokerage—Salary of future Accountants General—Certain offices abolished—New scale of salaries and new classification of duties—Orders in lunacy—Monies of suitors—General Orders to be framed to carry the act into effect—Sales of land and other property may be made by officers without being liable to the duties payable by auctioneers—Compensation to holders of abolished offices—Provision for the general expenses of the court—Surplus interest arising out of Suitors' Fund to become part of the Suitors' Fee Fund—Conclusion .. .. . 38

STATUTES.

15 & 16 Vict. c. 86.—An Act to amend the Practice and Course of Proceeding in the High Court of Chancery ..	page 49
15 & 16 Vict. c. 80.—An Act to abolish the Office of Master in Ordinary of the High Court of Chancery, and to make Provision for the more speedy and efficient Despatch of Business in the said Court .. .. .	70
15 & 16 Vict. c. 87.—An Act for the Relief of Suitors of the High Court of Chancery .. .. .	87

---

GENERAL ORDERS of the High Court of Chancery:—

July 27th, 1852 .. .. .	110
July 28th, 1852 .. .. .	110
Aug. 7th, 1852 .. .. .	111
Aug. 7th, 1852 .. .. .	112

---

INDEX .. .. .	127
---------------	-----





## INTRODUCTION.

---

THE changes introduced into the practice and procedure of the Court of Chancery, by the acts of the closing session of the late parliament, exceed in magnitude and importance every antecedent endeavour to amend the administration of justice in our courts of equity. The most successful achievements of former parliaments in this direction betrayed an excess of caution and a corresponding slenderness of result. If men came forward from time to time to propose remedies for palpable evils, they found themselves in advance of the age, which they sought to benefit by their measures. They had to encounter the general disposition to reverence with an undue homage established practices and existing institutions, and to reverence them on the exclusive ground of their inveteracy. In the case of the Court of Chancery there existed a further discouragement to reform. The assailant of its abuses derived little co-operation from the great mass of the community. Whatever of popular sympathy could be attracted to public questions, was appropriated by the more accepted advocate of improvements in our political system. Law reform grew into its present consequence by its own innate virtue, and without that popular caressing, which precipitated the triumphs of the politician.

It is not to be wondered, under such circumstances,

that, at the commencement of the second half of the current century, the Court of Chancery should appear so unimpressed by those traces of improvement, which mark the progress of our other institutions. The Chancery Commissioners have brought into prominent relief any reforms worth mentioning that have been effected within the last fifty years. The leading feature of those reforms consists in the adoption of the summary principle of procedure. This was successfully introduced into the act for compensating owners of property taken for public works, so early as 1812. It was carried into practical effect by Sir Samuel Romilly, who, say the Commissioners (p. 12), "procured an act, known by his name, for giving more speedy and economical relief in every case of a breach of any trust created for charitable purposes." The Commissioners add, with respect to this latter act (showing the disfavour with which every improvement was received), "although there appears at first to have been in the court some apprehension as to the effect of this innovation, the advantages of this comparatively and summary proceeding have been so appreciated, that it has been resorted to of late to a very great extent" (p. 12). The Commissioners give another instance of the utility of the summary principle, in "the important acts introduced by Sir Edward Sugden, consolidating and amending prior statutes, commencing so far back as the reign of queen Anne, enabling the court to deal with trust estates of persons under disability, upon summary application by petition." They also refer, as further showing the value of the summary jurisdiction, to Lord Cottenham's Trustee Relief Act, "by which trustees are authorized to pay money or transfer stock into court, leaving the parties interested to apply summarily on

petition," and also "to the act passed by the Vice-Chancellor Turner, by which executors and administrators are, after the lapse of a year, authorized to obtain orders as of course, for the purpose of ascertaining the debts and liabilities affecting the personal estate of deceased persons." By this act parties are also authorized to state facts by way of special case without any further pleading, and affidavits are by it made admissible at the hearing for many purposes for which previously a formal examination upon interrogatories would have been necessary. The proceedings under the recent Winding-up Acts, in lunacy and in bankruptcy are further mentioned, as showing the extent to which the court has recently acted upon the summary procedure. "But," to quote from the Commissioners' Report, "the last and greatest change in Chancery procedure is that introduced by the general orders of Lord Cottenham of April, 1850. By these, in a great number of specified cases, without any formal pleadings at all, by the filing of what is called a claim, heard summarily on affidavits, and, if necessary, on counter-affidavits, the court is enabled at once to pronounce a decree between the parties. Besides the specified cases, the court is authorized, in every case in which it thinks fit, to permit a claim to be filed. The extent to which this new system has been used is shown by the number of claims filed. The Order came into operation on the 22nd May, 1850, between which time and the 12th January, 1852, 1969 claims have been filed in almost every variety of case; upon these 863 decrees or orders have been drawn up; and 245 stand in the list for hearing. Of the remaining number by far the greater proportion have been disposed of by compromise or otherwise. Some few are not yet set down to be heard. In a

small number of the cases heard the court has felt itself unable to deal satisfactorily with the matter by way of claim, and has left the parties to proceed by bill."

"In Ireland, in the meantime, a more extensive and more systematic alteration had been effected by the act to regulate the proceedings of the Court of Chancery in that country, introduced by the present Master of the Rolls. By this, a plaintiff is enabled to proceed in every case by petition. Each party may obtain leave from the court to file interrogatories for the examination of the other; and provisions are introduced for obtaining the testimony of witnesses unwilling to come forward and give evidence on affidavit. The plaintiff is at liberty, if he think fit, to proceed by bill; the defendant is at liberty to apply to the court, if he shall see occasion, to direct the proceedings to be by bill, and the court itself has the power to direct a bill to be filed if it shall see occasion. We have ascertained that, from the time when this act came into operation, to the 12th January, 1852, 1252 suits have been commenced by petition; that thirty-six suits only have been commenced by bill, including bills of revivor; that since the 1st May, 1851, there have been only seven bills filed, of which four were bills of revivor; that the defendants have in no case availed themselves of the power given to them to ask for a bill, and that the court has in no case seen occasion to direct a bill to be filed" (p. 13.)

It is to the latter country, rather than to England, that we must look for an earlier appreciation and a more decided development of the principle of Chancery Reform. During the Chancellorship of Lord Plunkett an act was passed (4 & 5 Will. 4, c. 78) enabling the Chancellor,

with the advice and assistance of the Master of the Rolls, to make and issue such General Orders as might be deemed necessary to be adopted for amending the practice of the court. Immediately afterwards 209 General Orders were issued. By them the old process to contempt for enforcing an answer was abolished; and, in case of the defendant's default in answering within a prescribed time, the plaintiff was enabled to obtain what in many instances was equivalent to an answer, that the bill should be taken as confessed. Rules were introduced for the amendment of bills. Facilities for proving deeds and documents greatly increased; the practice of hour attendance in the Masters' offices (retained up to so recent a period in England) improved; a more controuling system introduced with reference to the supervision of receivers, and enforcing a periodical passing of their accounts; the abbreviation of decrees, and the prevention of the repetition of all the pleadings in a cause. This code was in many particulars the herald of the rules framed by Lord Cottenham in 1841.

It was not, however, until the resumption by Sir Edward Sugden of the Irish Seals, that the practice can be said to have reached a very high degree of improvement. The rules which at present govern the proceedings in the Irish Court of Chancery, both as to pleadings and practice, were framed by him, with the assistance of Mr. Blackburn, now Lord Chancellor of Ireland, and published under their authority in the year 1843. Some of them were taken from the rules of Lord Plunkett, some from the rules of Lord Cottenham, and many of them were a decided improvement on both. The effect of those rules cannot be better described than in the language

of a writer in the *Law Magazine* (a). "By the new system the crying evil of having the record loaded with answers to the entire bill from parties from whom a partial answer only was required, or with any answer from parties from whom no answer was required, was abated; parties formerly considered necessary were made unnecessary by an extension of the doctrine of representation, and allowing a plaintiff to proceed against one of several parties jointly interested (in this the English rules were followed); service of parties, and the mode of proceeding, in cases where a party served neglected to appear or answer, was rendered more simple; the time for taking the different steps was shortened; stale suits were dismissed, unless the court, in special cases, permitted their continuance—and here our English rules were improved on;—provision was made for the speedy decision of objections for want of parties, and for the taking of preliminary accounts; facilities were given for the raising and decision of questions upon demurrers and pleas, by the abolition of old technicalities; the cases for amendment of bills by interlineation, by new engrossment, and by addition in the way of label of new matter, which occurred since the commencement of a suit, were defined; the proper contents of bills of revivor and supplement were specified, as far as general rules could specify them; unnecessary recitals in decrees, orders and reports were prohibited; briefing was shortened; costs were reduced; proceedings in the Masters' offices were regulated, with a view to the saving of expense and time; the duties of receiver, as to their accounts and dealing with tenants, were laid down; in short, a vast deal was effected; and the labours of the two eminent judges, who

at this period devoted their great experience and learning to the subject, produced a wonderful improvement in the efficiency of the system."

Thus far, nevertheless, the history of Chancery Reform has been little more than a record of the merest palliatives; the only measure deserving a better name being Sir John Romilly's act for amending the Irish equitable jurisdiction, and, I may well add, the act for facilitating the sale of Irish incumbered estates, also introduced by the same learned judge. The latter is a measure of Chancery Reform in one of the most important branches of the business of that court. Its simplicity and success have elicited from a very observant writer the following testimony (a) — "The proceedings under the incumbered estates commission, instead of the expensive and cumbersome Chancery system, is simply by petition to sell, which being fiatd after a careful examination of title, the searches and other preparatory measures are conducted coterminously to a sale; the ascertainment of priorities and competing rights being matters of subsequent consideration; and even if unexpected delay occurs in distribution of the purchase money, in consequence of the necessity of careful scrutiny of those conflicting claims, the inconvenience is in great part obviated by the fructifying of the money in the funds for the benefit of the parties. For example: certain estates of W. D. were sold for 47,000*l.*, which was invested in the funds; and the profits on stock (406*l.* 8*s.* 8*d.*) reduced the total costs of sale and distribution to the trifling sum of 111*l.* 18*s.* 5*d.* In further illustration, we select nine estates from different parts of Ireland, and without deducting profit on the in-

(a) Ireland, Observations on the People, the Land, and the Law, p. 13.



vestment of stock, we find the total sum realized to be 502,093*l.*, and the total cost of sale and distribution to be 5104*l.* 10*s.* 11*d.*, or say, in round numbers, half a million of money realized and distributed at 19*s.* 6*d.* per cent." But the following is a still more remarkable testimony to the efficacy of a reform which still remains to be achieved for England: "The accountant of the court has the small salary of 275*l.* per annum, with an assistant at 2*l.* 10*s.* per week. In his books we find that, for the three months ending August 31st, 1851, the debtor and creditor accounts involved an amount of nearly three millions. There were 150 separate investments during that interval, amounting to upwards of three-quarters of a million, and 900 orders for payment had been issued. Let the reader compare these results with the expense and delays of Chancery proceedings, and mark the saving, both in time and money to the public."

It was time for the era of timid and inadequate amelioration to cease, when such successful examples of courageous and resolute amendment upbraided our comparative lethargy. Inspired by the successes of his experiments, and, no doubt, animated by the warnings of a name, suggestive of the very highest obligations, as connected with the amendment of the law, Sir John Romilly (I abridge the evidently well-informed statement of the *Law Review* for the current quarter) urged upon the "government the appointment of a commission to inquire into the whole subject of English Chancery proceedings, and in December, 1850 a commission was accordingly issued. The Commissioners were the leading practitioners in the court, including, besides Mr. Bethell, the present Master of the Rolls, the Vice-Chancellors Turner and Parker, and Sir

W. Page Wood, afterwards Solicitor-General ; an eminent common lawyer was very properly added, Mr. Justice Crompton ; and after the labours of the Commissioners had been carried on for some months, a very valuable suggestion of Mr. Stuart's led to the addition of Sir James Graham and Mr. Henley, as lay members of the commission. Mr. Barber, of the Chancery Bar, was appointed Secretary.

“ The Report of the Commissioners was ready for presentation about a fortnight before the meeting of Parliament, 3d Feb. 1852 ; and it had been privately communicated to the Chancellor (Lord Truro) on the eve of its being formally presented. His lordship gave immediate directions to Mr. Barber to prepare a bill which should carry into effect the recommendations of the Commissioners. But it afterwards occurred to Lord Truro that if the task of preparing the bill were devolved upon the Commissioners, an additional security would be afforded for effect being given to their intentions. They declined to draw the bill, conceiving that the responsibility of doing so should be thrown upon the government whose measure it was to be ; but the Master of Rolls and the two Vice-Chancellors offered to lend every assistance in their power to those who might be employed to draw the bill. Upon this, Lord Truro renewed his directions to Mr. Barber, who proceeded with his draft. The heads of the bill, as far as the most material portion of it was concerned, the abolition of the Masters' Office, were sketched out, and Sir W. P. Wood, one of the Commissioners, went carefully over them with Mr. Barber, who received instructions to draw the bill according to those heads. The clauses had been actually drawn, which embodied the main or leading part of the plan, when the

government at the end of the month (February) was changed (a)."

"But a very material incident had occurred in the House of Lords between the presentation of the Report and the change of the government. It appeared that although the speech from the throne had announced, and most truly announced, the important fact of directions having been given to prepare a bill founded upon the Report of the Commissioners, yet the Lord Chancellor had not himself made up his mind upon the most important part of the measure, the abolition of the Masters' Office, so late as the 12th February, when the question was put to him. This was the more unaccountable, because Lord John Russell had a week before given notice of bringing in the bill upon the 16th. There was evidently some difference among the ministers on this subject, and many pointed observations were made upon the singular circumstance of so important a change in the Court of Chancery being about to be propounded before the head of that court had fully made up his mind upon the whole subject.

"It is most probable that his lordship had agreed to the greater part of the plan proposed, and only reserved his final opinion upon some of the details; for there is no doubt that, after the discussion which took place in the

(a) To represent that government as having retired from office without leaving a trace behind them of their design to carry into execution the Report of the Commissioners, is therefore an entire misapprehension of the facts. Their successors had access to and communication with Mr. Barber, and he must, of course, have communicated to them those heads,—it may be said those clauses—which he had drawn by direction of Lord Truro, and in concert with the Solicitor-General, a leading Commissioner, who would naturally have had the charge of the Bill in the Commons, on the part of the Ministry.

House of Lords, an entire accordance took place between the members in the two houses, and Mr. Barber proceeded with his draft, the government having entirely adopted the plans of the Commissioners, and resolved, without any further delay, to bring in a bill in complete conformity with their recommendation. Whoever is acquainted with the character of Lord Truro, must be aware that, having once agreed to the plan, and undertaken to give it effect, his labour would have been strenuously and ungrudgingly bestowed upon the work. It is, moreover, certain that his colleagues were fully and anxiously resolved upon the passing of this important measure.

“Their successors, without hesitation and without delay, determined to pursue the same course. For this they deserve the greatest commendation. Although it is certain that in their position, with a majority against them in the House of Commons, and the public voice so generally raised in support of the measure, it would have been impossible to resist the determination in its favour, yet the promptitude with which they acted was of the greatest use, and their merit was the more conspicuous, because it cannot be doubted that they had strong prejudices to overcome.

“It is fit that we should here award Lord St. Leonards the additional praise of perfect fairness towards the preceding ministry and towards the Commissioners. Lord St. Leonards never for a moment pretended that the plan was that of a new ministry. On the contrary, he stated the reverse as distinctly as possible. ‘He wished most carefully to guard himself from the imputation that he was taking credit to himself for these measures. Though the government was ready to adopt these measures, they could not take credit for originating them.’ (12th March,

1852, *Hansard*, vol. cxxi. p. 946.) This was said in the statement made of the course intended to be taken with the law amendment measures of the late government. Other parts of the statement expressed doubts as to some of the parts of the Chancery measures. But these appear to have been removed; for he afterwards said, 'The bill had been drawn up in strict conformity to the recommendations of the Commissioners.' (May, 10, 1852, *Hansard*, vol. cxxi. p. 419.) It was submitted to the Commissioners, at least to their chief, the Master of the Rolls, and the two Vice-Chancellors who had been upon the commission, and who, with the other Vice-Chancellors, went through it and approved, after some alterations. 'Having forwarded the bill (May 21, 1852) on the recommendation of the Commissioners, he had given up the whole of that day to going over it word by word with the equity judges,—he meant the Master of the Rolls, the Lords Justices of Appeal and the three Vice-Chancellors. They had made some alterations in the bill as originally framed; but he believed they were now unanimous in opinion with respect to the bill as it stood after those alterations.' (*Hansard*, vol. cxxi. p. 851.) So Lord Lyndhurst said on the same occasion, 'He had examined the bill as printed, and found that its provisions substantially carried the recommendations of the Commissioners into effect.' (*Hansard*, ib. p. 852.)

"There still remained, however, some points of difference between the bill and the '*Heads*,' which the Lord Chancellor, in opening the measure (12 March, 1852, *Hansard*, vol. cxxi. p. 946), said he had received, it was understood, from the Commissioners through Mr. Barber, and he mentioned the most material of them, namely, retaining the Masters, or a portion of them, for certain pur-

poses. Such of these differences as had not been removed, at the consultation with the Commissioners and others on the 21st May, were afterwards removed by the amendments which the Commons made upon the bill, and to which the Lords, on the Chancellor's motion, agreed. So that the act, as it finally passed and now stands, is in every particular according to the Report of the Commissioners, quite as much so as if they had acceded to Lord Truro's proposal and themselves drawn the bill. We have already stated that Mr. Barber, acting under Lord Truro's instructions, had, before the change of government, arranged and drawn the heads of the clauses abolishing the Masters' Office, and that the Solicitor-General (Sir W. P. Wood) had, as representing both his brother Commissioners and the government, gone over the draft with him. Indeed, several of the clauses were actually drawn; but independent of that, which is quite immaterial if the substance of each clause was given as agreed on, between Sir W. P. Wood and the draftsman, those provisions were almost identically in the order and in the form in which they now stand in the Masters Bill as actually passed."

The foregoing accredited narrative of the proceedings antecedent to, and connected with, the passing of the new acts will not, I trust, be considered out of place in a treatise designed for professional uses—not party objects. The journals and official papers of both Houses of Parliament will, however, place the claims of rival administrations in an impartial light, and gratify the patriotic inquirer, rather by the harmony with which the various hues of party have combined to form the great covenant of justice, than by the exhibition of jealous and conflicting pretensions. The public judgment as to the successful claimants may not, I apprehend, vary materially from that awarded by

Palæmon in the old cause of *Damætas* v. *Menalcas*, *ex relatione* Dryden—

“ So nice a difference in your merits lies,  
That both have won or both deserv'd the prize.”

## 15 & 16 VICT. c. 86.

---

### CHAPTER I.

#### THE BILL.

---

Bills of complaint—To be printed—Abolition of writ of subpoena—And of writ of summons—In lieu thereof printed bill or claim to be served—Convenience of the new practice—When a written copy may be served—Plaintiff's solicitor to supply copies of—Amendment, when to be made by interlineations—Direction of General Orders in respect of amendments—When reprint necessary—The printing of a bill or claim experimental—Requirements of the act as to the new forms of equity pleading—Abolition of the interrogating part of the bill—Interrogatories not done away with as a separate part of the procedure—Authority of next friend to be given before his name be used as plaintiff in any suit—Recent decision as to costs where next friend's name was used without such authority—Fees of solicitors under the new General Orders.

---

THE first section provides that in future all bills of complaint shall be printed, and filed in the proper office. And by the first of the New General Orders it is directed, that bills and claims shall be printed on writing royal paper, quarto, in pica type, leaded; and that the copy to be filed shall be interleaved with paper of the same description.

By sect. 2, the writ of subpoena to appear and answer, and the writ of summons upon a claim, are abolished; and in lieu thereof (sect. 3), the defendant shall be served with a print of the bill or claim, having an indorsement addressed to him to the same effect as the present writ of subpoena or writ of summons, and stamped by the officer with a proper stamp, indicating that the bill or claim has been filed. By this amendment in the procedure, a defendant will, at the very commencement of the suit, be informed of the nature of the plaintiff's complaint, an advantage which he could not derive from the abolished pro-



cess, which merely required a defendant to appear to and answer a bill placed previously on the file. The first step taken by a plaintiff will, therefore, henceforward fulfil the twofold office of bringing a defendant before the court, and of apprising him of the object for which the suit is instituted.

Sect. 4 gives to the filing and service of a printed bill or claim the same effect as the filing of a bill or claim, or the issuing of writs of subpoena or summons; and sect. 5 makes the service of a printed copy of the bill or claim sufficient without the production of the original.

Sect. 6 empowers the officer of the court in certain cases to receive a written copy of the bill or claim, upon the undertaking of the solicitor to file a printed copy within fourteen days.

But by the second General Order, no costs are to be allowed either as between party and party, or as between solicitor and client, for any written bill or written copy of a bill filed under the 15 & 16 Vict. c. 86, s. 6, or for any written copy thereof served upon any defendant thereto, or for any written brief of such bill, unless the court shall, in disposing of the costs of the cause, direct the allowance thereof.

And, by the General Order 3, the clerks of Record and Writs shall, at the expiration of fourteen days from the filing of any written bill, or written copy of a bill, take off the files of the court, without further order, the bill or copy so filed, unless a printed copy thereof shall in the meantime have been filed; and the plaintiff in the suit or his solicitor, who shall personally have undertaken to file such printed copy, shall pay to the defendant all the costs incurred by him in the suit, such costs to be taxed by the taxing master, without further order, upon production to him of the certificate of the clerk of records and writs, that a printed copy of the bill has not been filed pursuant to such undertaking, and to be recoverable in like manner as costs ordered to be paid by a party in a suit to another party in a suit are now recoverable.

Sect. 7 provides, that the plaintiff shall deliver to the defendant or his solicitor as many copies of the printed bill or claim as he shall have occasion for. The rate of payment for these

copies to be, under General Order 5, at the rate of one half-penny per folio ; but no defendant shall be at liberty to demand from the plaintiff more than ten printed copies of his bill or claim. (Gen. Ord. 6.)

The provisions with respect to filing original bills and claims are extended (sect. 8) to amendments ; and where, according to the present practice, a new engrossment would not be necessary, a reprint of the bill or claim will not be required, but such alterations made on the printed pleading as may be done with convenience.

As regards amendments, the following four General Orders have been issued : It is first ordered (No. 7), that where, according to the present practice of the court, an amendment of a bill or claim may be made without a new engrossment thereof, a bill or claim may be amended by written alterations in the printed bill of complaint or claim so to be filed, and by additions on the paper to be interleaved therewith, according to the directions of Order 1.

It is secondly ordered (No. 8), that the practice of amending a defendant's copy of the bill shall, with respect to the amendment of bills filed after the orders come into operation, be abolished.

A further Order (No. 9), with respect to amendments, directs that a copy of an amended bill or claim, whether upon an amendment by a reprint or by such alterations and additions, as mentioned in Order 7, is to be served upon the defendant or his solicitor ; and such copy may be partly printed and partly written, if the amendment is not made by a reprint ; but in every case the copy to be served is to be stamped with the proper stamp by one of the clerks of Records and Writs, indicating the filing of such amended bill or claim, and the date of the filing thereof.

It is fourthly provided, by the 10th General Order, that in all cases where, according to the present practice of the court, a subpoena to appear to and answer an amended bill may be served upon the solicitor of a defendant, service upon the defendant's solicitor of a copy of the amended bill, whether wholly

printed, or partly printed and partly written, shall be good service on the defendant.

The 9th section confers on the Lord Chancellor the power of abrogating by any order, which he may think proper to make, the foregoing provisions of the act with respect to printing and otherwise, and of reviving the abolished practice of filing bills and claims, and the issuing and service of subpoenas. The introduction of this clause shows, that not merely the printing of the bill or claim, but the initiation of the suit by service of copies of them, in lieu of the writ of subpoena or writ of summons, are intended as merely experimental.

As regards the form of the bill, the 10th section prescribes some general and also some specific conditions. Amongst the former may be mentioned brevity and materiality in the narration of the facts and circumstances disclosed, to which end the narrative is to be divided into paragraphs, numbered consecutively, each paragraph containing a separate and distinct allegation. The 14th General Order refers to a form set out in schedule (B.), *post*, p. 121, in which the intentions of the legislature appear to have been faithfully carried out.

But the section under consideration introduces a change in the structure of the bill, and in what has been hitherto regarded a material portion of its contents, which must essentially supersede the existing system. It must pray specifically for the relief which the plaintiff may conceive himself entitled to, and also for general relief, but the bill shall not contain any interrogatories for the examination of the defendant. Interrogatories for the examination of the defendant to a bill are to be filed as a separate part of the pleadings, and are to be in a form similar to the form contained in schedule (C.) to the General Orders (b). Such interrogatories must, under the 16th General Order, be filed within eight days after the time limited for the appearance of the defendant; and by the 20th General Order, no interrogatories for the examination of any defendant shall be filed

(b) *Post*, p. 123.

after that time without special leave of the court, to be applied for on notice of motion.

The 17th and 18th General Orders prescribe the time within which interrogatories are to be delivered to the defendant in case he appears to the bill, or omits to do so. In the former event a copy of the interrogatories is to be delivered to the defendant within eight days after the time allowed for his appearance; in the latter, it may be delivered at any time after the time allowed to such defendant to appear, and before his appearance in person, or by his own solicitor.

By these latter provisions, a bill in equity will become a very different species of pleading from what it has hitherto been; as it will no longer require a defendant to make *discovery*, it will cease to be encumbered by the inquiries contained in what is called the "*interrogating part*." The new bill must, in obedience to the requirements of sect. 10, respect conciseness, so far as it can be realized without obscurity, and materiality of statement, so far as that object may be effected without detriment to a full disclosure of the plaintiff's case. But the most remarkable amendment of all is the abolition of interrogatories. What the pleader has stated in a perspicuous and comprehensive form for the information of the court, he must no longer reproduce in an almost interminable succession of questions, conceived upon the assumption, and apparently framed upon the assurance, that he is, in all instances, dealing with an evasive, slippery, and unconscientious defendant; it will be his more grateful task, under this new practice, to unfold in plain and unvarnished allegation the grounds upon which the claimant asserts his rights, or the victim of an injury supplicates redress, than to devise a torture for sifting the consciences of the dishonest, or an ingenious mesh for entrapping the unwary.

The Report of the Chancery Commissioners does ample justice to the exploded system. Speaking of interrogatories, they exemplify their uses and objects as follows (1st Rep. p. 5): "For example, if the statement be of a deed bearing a certain date, and made between and executed by certain parties, in certain words or to a certain effect, the questions would be whether

such a deed of that date, or some other and what date, was not made between and executed by such parties, or some other and which of them, or some other and what parties, in such words or to such effect, or in some other and what words, and to what effect."

The fees to be paid to solicitors for instructions for bills, for engrossing bills and claims, for abbreviating bills, and making a brief thereof, in suits commenced after the General Orders come into operation, shall be those specified in schedule (A.) to the Orders.

It is to be observed, that, before the name of any person shall be used in any suit as the next friend of any infant, married woman or relator in any information, such a person shall sign a written authority for that purpose (ss. 11, 12). The value of this provision may be estimated by the following case: The solicitor for a married woman, the plaintiff in the suit, placed the name of A. on the record as her next friend. On a motion to dismiss the bill for want of prosecution, it was stated by A. that his name had been put on the record without his knowledge; that he had no acquaintance with the plaintiff or or any of the parties to the suit; that he had no means of hearing of the suit, and that he had never heard of it until he was served with the notice of motion: Held, that A. was nevertheless liable to pay the defendant all the costs of the suit (*Bligh v. Tredyett*, 21 Law J. (N. S.) Chanc. 204).

## CHAPTER II.

## THE ANSWER.

---

The form and contents of an answer—May be filed notwithstanding that the plaintiff does not require it—So also a plea and demurrer—May set forth statements which the defendant considers material to his case—After expiration of time for filing, plaintiff may move for a decree—Exceptions to answer for impertinence abolished—But without prejudice to an application to the Court, where impertinent matter shall be introduced—Order for production of documents by plaintiff—Interrogatories for examination of plaintiff—Cross bill may be filed instead—Order for production of documents by defendant—Commissions to take pleas, answers, disclaimers and examinations abolished—Testimony of the Chancery Commissioners to the utility of such abolition—How pleas, answers, examinations, &c. are to be taken in Scotland, Ireland and the Colonies—Joining issue—Dismissing bill for want of prosecution—General Order as to dismissal.

---

THE general framework and contents of the bill having been prescribed by the 10th section and the General Orders, we are enabled to form a tolerably precise idea of what the defendant's answer must contain under the new system of pleading. The 21st General Order refers to a form (schedule (D.) to General Orders, *post*, p. 124) which may be adopted, with such variations as the nature and circumstances of each particular case may require (*a*). In some respects, there will be neither a correspondence, nor, indeed, necessary connection, between the bill and answer. For example, though the bill shall not contain any interrogatories,—these being filed as a separate portion of the plaintiff's proceedings,—the answer of the defendant may, under the 14th section, contain a reply to these separate interrogatories. Again, under the same section, the answer may depart altogether from the course over which the plaintiff's bill travels, and put forward such statements (not even glanced at by the bill) as the defendant may think it

necessary or advisable to set forth. In other respects it must be framed in a style of close resemblance to that of the bill, and, like it, be divided into paragraphs numbered consecutively, each paragraph containing, as nearly as may be, a separate or distinct statement or allegation.

Though the plaintiff may not by his bill require any answer from the defendant, the latter is not, therefore, to be precluded from pleading, answering, or demurring thereto (s. 13). By the 19th General Order, a defendant required to answer a bill must put in his plea, answer or demurrer thereto, not demurring alone, within fourteen days of his receiving a copy of the interrogatories to answer. But, after the ordinary time allowed by the rules of the court for answering, a defendant not required to answer, is not to be at liberty to put in an answer, plea or demurrer, without leave from the court.

And the answer of the defendant must not of necessity confine itself to replying to the interrogatories filed for that purpose. It may contain, in addition to such replies, any other statements which the defendant may deem it material to put upon the record (s. 14).

It shall be open to a plaintiff at any time, after the expiration of the time allowed for answering, to move upon affidavit and upon proper notice for such decree or decretal order as he may think himself entitled to; such motion to be made before replication: and, if made after answer, the answer shall, for the purposes of the motion, be treated as an affidavit (s. 15). But it will be competent for the court to grant or refuse such motion, and give such directions for the further prosecution of the suit, as the circumstances of the case may require (s. 16). And by the General Orders 22, 23, 24, 25, 26, 27, the following directions are given: 1st, that a month's notice is to be given by the plaintiff to the defendant of a motion for a decree or decretal order; 2ndly, that the affidavits to be used in support of such motion are to be filed before the service of such notice, and a list of such affidavits to be set forth; 3rdly, that the defendant, within fourteen days after service of such notice shall file his affidavits in answer, and to furnish the plaintiff, or his solicitor,

with a list thereof; 4thly, that within seven days after the expiration of such fourteen days, the plaintiff shall file his affidavits in reply; 5thly, that no further evidence shall be received without leave of the court; 6thly, that every such notice of motion shall be entered with the registrar.

The 17th section abolishes the present practice of excepting to bills, answers and other proceedings for impertinence; but it contains a proviso enabling a party, on application to the court, to be paid the costs of any impertinent matter introduced into the proceedings by his opponent. By General Order, No. 30, this application is to be made at the time when the court disposes of the costs of the cause or matter, and not at any other time.

The court shall have the power, on the application of any plaintiff, to make an order for the production by any defendant, upon oath, of any documents in his possession relating to matters in question in the suit (s. 18).

In suits in which the defendant is required to answer the bill, but not until he shall have put in a sufficient answer, and without filing any cross bill of discovery, he may file interrogatories for the examination of the plaintiff. To these he must prefix a concise statement of the subjects on which discovery is sought. In case of exceptions for insufficiency to the answers put in to those interrogatories, the court, in determining the question of materiality, will have regard to the statements contained in the original bill or claim, and the defendant's answer. Should the defendant prefer filing a cross bill to filing interrogatories, he may file the former (s. 19).

Upon the application of a defendant after answer, the plaintiff may be required to produce, on oath, such documents in his possession or power relating to the subject matter of the suit as the court shall think right to order (s. 20).

The 21st section abolishes the practice of issuing commissions to take pleas, answers, disclaimers, and examinations within the jurisdiction of the court; these may, henceforward, be filed without any further formality than is required in the swearing and filing an affidavit. This provision of the act does away



with one great cause of delay and expense to suitors. Its value can be best appreciated by reading the brief, but striking description given by the Chancery Commissioners of the abuses attending the issue of those special commissions.

“The evidence is taken by written interrogatories, upon which the witnesses are examined in private, none of the parties or their agents being present. The examination is conducted in London by the examiner, a permanent officer of the court, and in the country by a commissioner specially appointed for that purpose. The interrogatories being framed beforehand by counsel without its being certain what witnesses will be forthcoming, or what answer a witness will give to any particular question, are framed to meet the contingencies which are likely to occur and are deemed necessary to be provided against. Several witnesses are frequently produced to prove the same facts, or to prove facts leading to the material conclusion, from the uncertainty whether the one witness (who if examined orally and publicly would have been found sufficient) has in his deposition given sufficient evidence of the necessary facts. The examiner or commissioner takes down and records the answers of the witnesses to the written interrogatories, and is under the obligation of an oath not to disclose the evidence taken. The theory of the court is, that the witnesses are subject to cross-examination; but the cross-examination by written interrogatories of witnesses, whose examination in chief is not known, is so ineffective and dangerous that it is seldom resorted to except where the witness is known to be friendly to the cross-examining party, and has previously communicated facts to be the subject of such cross-examination. If the witnesses are to be examined in the country, a special commission issues for the purpose. Formerly there was a commissioner on each side; but by a recent rule of court only one commissioner acts. This has diminished the expense; but has been complained of as leading to another evil,—that the acting commissioner being named by one party, it is supposed that the evidence on that side is taken more carefully and more favourably than the evidence on the other side. The obtaining of this commission is a matter of considerable expense. A day is

appointed for opening the commission, generally at an inn. Besides the commissioner, there is a clerk ; who is also sworn to secrecy. The commissioner is furnished with the interrogatories and cross-interrogatories of the parties ; and each witness is sent in with a note specifying the interrogatories which are to be administered to him. The commissioner puts the interrogatory to the witness, often, if not generally, being obliged to translate it into less technical language more intelligible to the witness ; whose answers are taken down and fair copied by the clerk. The process is very slow. The solicitors and the witnesses are in attendance during the execution of the commission, which often lasts several days, and has not unfrequently lasted weeks, the commissioner and his clerk being entitled to daily fees, and heavy expenses being incurred by the attendance of the solicitors and witnesses. The depositions being completed are sealed up by the commissioner and returned to the office of records, either by himself, or by some messenger on oath."—(1st Rep. pp. 7, 8.)

By sect. 22, all pleas, answers, examinations, affidavits, &c. may be taken and sworn in Scotland, Ireland, the Channel Islands, or the colonies, before any judge, notary public, or consul, and the judges and other offices of the Court of Chancery shall take judicial notice of the seal or signature of such judge, notary, or consul, appended or subscribed to any such pleas, answers, &c. ; and by sect. 23, parties swearing falsely before any person authorized by the act to administer oaths shall be liable to the same penalties as if they had sworn before any court now authorized by law to administer oaths : and (s. 24) if any person shall forge the signature or seal of any judge, notary, or other person authorized to administer an oath as aforesaid, he shall be guilty of felony. By these three sections the vexed question of the admissibility of notarial evidence without proof of the notary's signature or seal, would appear to be set at rest.

Pleas, answers, disclaimers, or examinations, whether taken by commission out of the jurisdiction of the court or otherwise, may be filed without the oath of a messenger, and the same

mode of authenticating them shall be adopted as is now in practice with respect to affidavits (s. 25).

Issue may be joined by filing a replication as at present, and where a defendant shall not have been required to answer, and shall not have answered the plaintiff's bill, he shall be considered to have traversed the case made by the bill (s. 26). And by the 28th General Order, where a defendant shall not have been required to answer, and shall not have answered the plaintiff's bill, so that under the 15 & 16 Vict. c. 86, s. 26, he is to be considered as having traversed the case made by the bill, issue is nevertheless to be joined by filing a replication in the form or to the effect of the replication now in use; and where a defendant not required to answer, shall not have answered the bill, he may, subject to such conditions as may be prescribed by the Lord Chancellor, dismiss the bill for want of prosecution (s. 27). These conditions are, according to the 29th General Order, as follows:—where a defendant to a suit, commenced by bill, shall not have been required to answer the bill, and shall not have answered the same, he shall be at liberty to apply for an order to dismiss the bill for want of prosecution at any time after the expiration of three months from the time of his appearance, unless a motion for a decree or a decretal order shall have been set down in the meantime, or the cause shall have been set down to be heard; and the court may, upon such application, if it shall think fit, make an order dismissing the bill.

### CHAPTER III.

#### THE EVIDENCE.

Outline of the former mode of taking evidence—Opinion of the Chancery Commissioners as to its disadvantages—Practical difficulty of a *vidé voce* examination before the judges—Recommendation of the Commissioners—Provisions of the act strictly conformable thereto—May be taken orally or by affidavit, at the option of a plaintiff—Mode of taking it—To be taken in the presence of the parties, their counsel and solicitors—Difficult duties imposed by the act on the examiner—When he shall take down the objection of a witness to answer—Where objections are to be transmitted—Demurrer to questions not to be set down in future for argument as under the old practice—Examinations to be sent to the Record Office—Copies of such examination to be obtained on payment for same—Commissions for examination abolished—When affidavits may be used on the hearing—Form and requisites of affidavits—When evidence on both sides shall be closed—Cross-examination of witnesses by affidavit—When such witnesses may be examined orally—Examination of witness by the court for its own satisfaction—Subpoena requiring attendance of witness—Evidence subsequent to the hearing—The new General Orders with respect to evidence.

UNDER the abolished practice, evidence used to be taken for the hearing of a cause by written interrogatories, administered by the examiners of the court, or by interrogatories administered by commissioners. With a few exceptions, such as evidence to prove an exhibit, or the formal execution of a deed, which might be done by affidavit at the hearing, the court could not receive any other description of evidence (a). In cases of proceeding by petition or claim, motions for injunction or a receiver, the court was obliged to proceed exclusively upon affidavit evidence, and had no means of compelling the pro-

(a) Deeds, bonds or other instruments, which require proof of their due execution by a subscribing witness or witnesses, or promissory notes, bills of exchange, letters or receipts, of which proof must be made of the handwriting of the persons writing or subscribing the same, are all considered exhibits, and may be proved *vidé voce*. (Daniel's Ch. Pr. 842, 2nd edit.) No exhibit, however, can be proved by *vidé voce* examination that requires more than the proof of the execution or of handwriting to substantiate it; nor where such examination would admit of cross examination (*Lake v. Skinner*, 1 J. & W. 15); neither can a will of real estate be so proved, because, besides the mere execution of the will, the sanity of the testator must be established (*Harris v. Ingledeu*, 3 P. W. 93).

duction of any other. Yet, the interests at stake in the latter class of proceedings may be fully as consequential as in those where depositions on interrogatories constitute the sole evidence. It has frequently happened that, where the more formal examination has been resorted to, there has been little, if any, real conflict of fact, and the matters proved have been of a character which would well admit of proof by the affidavits of witnesses. In the Masters' offices the evidence is taken either *vivâ voce* or by depositions on written interrogatories, or, where the parties consent, by affidavit. The common practice is to proceed by affidavit, unless where the conduct of the opposite party be such as to render depositions on interrogatories desirable. The merits of these respective modes of taking evidence have been carefully weighed by the Chancery Commissioners, who recommend as follows:—

- “That the existing system of examining witnesses upon written interrogatories should be abolished.
- “That affidavit evidence should in general be admissible.
- “That rules should be made to prevent the prolixity and multiplication of affidavits.
- “That any party should have a right to have the witness produced for *vivâ voce* examination.
- “That either party should have power to compel witnesses to give evidence in any proceeding.
- “That affidavits may, upon all interlocutory applications, be read against the answer, which should be regarded in such cases as an affidavit only.
- “That when witnesses are examined *vivâ voce* it should be before a competent person, in the presence of both parties, and that the examination and cross-examination should be by the parties, or their counsel or agents.
- “That the statement of the witness should be reduced into writing by the examining officer in the form of a narrative, and read over to the witness in the presence of the parties, and signed by him.
- “That the court should always have power to call for and examine, or require the examination of any witness.”

With one or two trifling exceptions, the act carries the above recommendations into effect.

The 28th section abolishes the existing practice of examining witnesses in causes; reserving, however, to the court a power to order any witness either within or out of the jurisdiction to be examined on interrogatories as at present.

The 29th section provides that the plaintiff, where any suit by bill shall be at issue, may give notice to the defendant that he desires that the evidence to be adduced in the cause shall be taken orally or by affidavit.

Where the parties desire it, the evidence may be taken orally, subject to such order as the court may think proper to make, if the request be made by a party without a sufficient interest in the matter in question (s. 30).

The two subsequent sections (31, 32) point out the mode of examination, and the form in which it is to be taken down, and follow strictly the recommendations of the commissioners.—(Rep. p. 22.) The former provides that all witnesses who are to be examined orally shall be examined by one of the examiners of the court, or by an examiner to be specially appointed by the court for that purpose. The examination shall take place in the presence of the parties, their counsel, solicitors or agents; and the witnesses shall be subject to cross-examination and re-examination. The 32nd section directs the mode of taking down the depositions. This shall not be in the form of question and answer, but in that of a narrative, conveying the substance, meaning and true spirit of the evidence given by the witness, instead of his precise words. But the new General Orders (a), from numbers 31 to 39 inclusively, more particularly prescribe the course to be adopted in taking the evidence. Notwithstanding the general direction as to the mode in which the evidence shall be received, the examiner is authorized to put down any particular question and answer, if he should see any special reason for doing so; and he shall notice on the face of the deposition, or state his opinion to the counsel, solicitor or parties of any objection, without himself deciding on the

(a) Post, p. 117, 118.

materiality of any question. If parties refuse to be sworn or to answer any lawful question, the same course is to be pursued as is now adopted. And (s. 33) if a witness object to any question that may be put to him, the objection shall be transmitted to the record office of the court, and the court itself shall decide its validity, and deal with the costs incident thereto at its discretion.

When the examination of a witness shall have been concluded, the depositions shall be sent to the Record Office, and copies thereof shall be procurable for such payment as may be provided by a general order (s. 34).

It shall not be necessary to sue out any commission for examination, &c. within the jurisdiction of the court; and examiners appointed by the court shall have the same powers as if appointed under a commission (s. 35). This is not a mere repetition of the provision contained in sect. 21, but a specific provision applicable to the commission itself as a proceeding to be discontinued.

Where parties elect to take the evidence orally, affidavits as to particular facts may, by consent or by leave of the court, upon notice be used on the hearing of the cause; and such consent may be given on the part of married women, infants, or other persons under disability (s. 36).

The 31st General Order directs that the time within which the plaintiff in any suit commenced by bill is to give the defendant notice of the mode in which he desires the evidence to be taken, shall be seven days after issue joined therein; and if the plaintiff shall not within such time give such notice, or if the plaintiff shall give such notice, and shall therein desire the evidence to be adduced on affidavit, the plaintiff and defendant respectively shall be at liberty to verify their respective cases by affidavit, unless the defendant, or some one of the defendants, if more than one, shall, within fourteen days after the expiration of the said period of seven days, give notice to the plaintiff or his solicitor that he or they desire the evidence to be oral.

Every affidavit shall be divided into paragraphs, numbered consecutively (s. 37).

The evidence on both sides in any cause to be used at the hearing thereof, whether taken orally (and including the cross-examination and re-examination of any witness), or taken upon affidavit, shall be closed within nine weeks after issue joined, except that any witness, who has made an affidavit intended to be used by any party to such cause at the hearing thereof, shall be subject to cross-examination within one month after the expiration of such nine weeks (General Order 32); and such witness shall be examined in the same manner as if he had given his evidence orally; and after such cross-examination such witness may be examined orally for the party who filed his affidavit; and such witness shall be bound, on receiving due notice and his reasonable expenses, to attend before the examiner in the same manner as if he had been served with a writ of subpoena; and the expenses shall be paid by the party, and be deemed costs in the cause of such party, unless the court shall direct otherwise (38).

By the General Order, No. 33, no affidavit filed before issue joined in any cause shall be received at the hearing thereof, unless within one month after issue joined notice in writing shall have been given by the party intending to use the same to the opposite party of such his intention.

The directions as to cross-examination and re-examination are as follow. The 34th General Order directs, that any party desiring to cross-examine a witness who has given his evidence by affidavit, shall give forty-eight hours' notice to the party on whose behalf such affidavit was filed, or to the party intending to use the same, of the time and place of such cross-examination, in order that such party may attend if he shall think proper.

By the 35th General Order, the re-examination of any such witness is immediately to follow his cross-examination.

The 36th General Order directs, that where any party in any cause requiring the attendance of any witness before an examiner for the purpose of examination or cross-examination, with a view to his evidence being used upon any claim, motion, petition, or other proceeding before the court, not being the hearing of a cause, he shall give the opposite party forty-eight hours' notice



of his intention, and of the time and place of such examination, unless the court shall think fit to dispense with such notice.

Where it is desired to cross-examine any party, whether a party to the cause or matter or not, who has made an affidavit to be used, or which shall be used, on any claim, motion, petition, or other proceeding before the court, not being the hearing of a cause, the 37th General Order directs, that the party desiring so to cross-examine such deponent shall give such notice to the opposite party as is required by General Order 34.

The foregoing orders with reference to the examination, cross-examination, and re-examination of witnesses, are extended, by General Order, No. 38, to evidence taken in any cause subsequent to the hearing thereof.

By the General Order, No. 39, it is directed, that in suits in which issue shall have been joined when the General Orders come into operation, the evidence to be used at the hearing of the cause shall be taken according to the existing practice of the court, unless taken by consent, or by order of the court, according to the provisions of the act 15 & 16 Vict. c. 86, and the General Orders.

The commissioners having recommended that "the court should also in every case and on every occasion have the power to require the production of a witness for its own satisfaction," the 39th section gives it that power, the costs of producing such witness to be paid by such of the parties to the suit as the court may think fit.

Any party in a cause may by subpoena require the attendance of any witness before an examiner, and examine him orally for the purpose of using his evidence on any claim or other proceeding; and such witness shall be bound to attend in the same manner as he would be if summoned to be examined with a view to the hearing of a cause; and any party who made an affidavit to be used on any claim or other proceeding, shall, on service of subpoena, attend for the purpose of cross-examination, the court to exercise a discretionary power of acting on such evidence as may be before it at the time (s. 40).

Evidence subsequent to the hearing shall be taken in the same manner as prior thereto (s. 41).

## CHAPTER IV.

## PARTIES.

—◆—

The old rule as to parties—Comment of the Chancery Commissioners thereon—New rules—Setting down cause for objection for want of parties—In what cases it will be no longer necessary to raise a personal representative of an estate—No preliminary pleading henceforward requisite to have personal estate administered—An order for such purpose to be made on summons—Form of summons under new General Order—How summons must be served—A corresponding summary proceeding to have real estate administered—Power of ordering a sale in foreclosure suits—Inconvenience of the former practice—Misjoinder of plaintiffs—Suit not to be objected to on the ground that it seeks a declaratory decree—Inconvenience of the old rule—The court to have the power to decide between some parties without making others interested parties in the suit.

—◆—

THE importance of the next section, that relating to the subject of parties, and prescribing the rules by which the equity pleader shall henceforward be governed in making the necessary parties to a suit, cannot be better understood than by referring to the language in which the commissioners conclude their comments on the existing general rule of equity, which requires that all persons interested in the subject-matter of the litigation should be parties to the suit, so that the court may in the one suit make a final determination as between all parties. "There is probably," say the Commissioners (1st Rep. p. 18), "nothing in Chancery procedure which has tended so much to augment expense and delay as the rules of the court as to parties. They operate not merely by the multiplication of parties in the first instance, but by creating the necessity, upon every birth and every death, of making fresh parties by fresh proceedings." In adoption, then, not only of the recommendation of the commissioners, but, of the precise language in which they lay down the new rules as to parties, the 42nd section provides, that it shall

not be competent to any defendant in any suit to take any objection for want of parties to such suit, in any case to which the subjoined rules shall extend.

Those rules provide, that one residuary legatee or next of kin, and one legatee or other person, entitled to a charge on real estate, and one devise or one of several coheirs, may respectively institute suits for the administration of personal or real estate, and obtain a decree without serving the parties having a like interest; that one of several cestuis que trust may have the trusts of any deed carried into execution, without making any other cestui que trust a party; that an executor or administrator or trustee may in like manner obtain a decree against one of several legatees, next of kin or cestuis que trust; that in suits for the protection of property pending litigation, or to restrain waste, one person may sue on behalf of himself and others having a like interest; the court in all the above cases to have power to require service on other parties, and to give the conduct of the suit to any one of such parties, and notice of the decree to be given to the persons who, according to the present practice of the court, would be necessary parties; such persons, after notice thereof, to be bound by the proceedings, and to be at liberty, on an order of course, to attend the proceedings under the decree, and, whether they attend or not, to be bound by such proceedings, and also to be at liberty to apply to the court for leave to add to the decree. They provide, lastly, that trustees, in whom real or personal estate is vested, shall represent the cestuis que trust in the same manner and to the same extent as executors or administrators in suits concerning the personal estate represent the persons beneficially interested, without making such persons parties to the suit.

The 40th General Order limits the time, within which a party served with notice of a decree, under the foregoing section, may apply to the court to add to the decree, to one month after service; and the 41st General Order directs that a memorandum of the service upon any person of notice of the decree in any suit under the said section, is to be entered in the office of the clerk of Records and Writs, upon proof by affidavit of such service.

By sect. 43, the practice of setting down a cause merely on objection for want of parties is abolished.

The 44th section has been framed to meet another grievous occasion of embarrassment to a plaintiff. It is thus described by the Chancery Commissioners: "If any person, so interested, should be dead, and no one has thought it worth while to prove his will, or take out administration to his estate, the plaintiff is himself obliged to take proceedings in the Ecclesiastical Court for the purpose of compelling some person to administer, or, in default, to obtain letters of administration to a nominee, limited to the purposes of a suit, and such nominee administrator, who serves no useful purpose whatever, is made a formal party to the suit in chancery, is served with process, puts in an answer, and appears by counsel." This section provides that in no such case shall it be necessary to take out administration, but that the court shall be empowered either to proceed in the absence of any person representing the estate of the deceased person, or to appoint some person to represent such estate for all the purposes of the suit, giving such notice as the court shall think fit; and the order of the court shall bind the estate of the deceased in the same manner as if there had been a duly constituted personal representative of such deceased person made a party to the suit.

The 45th section avoids the further necessity of filing a bill or claim to have the personal estate of a deceased person administered. This, also, is in accordance with a strong recommendation of the commissioners. "In many of the cases," say they, "in which the administration of the personal estate merely is wanted, we are of opinion that the process may be of the simplest kind, and that all preliminary pleading may, without any mischief or inconvenience, be avoided. In these cases the decree of the court is generally a mere matter of course. It directs the master to take the accounts of the executor or administrator, and an account of the outstanding personal estate, and to ascertain the debts due from the deceased." The section now under consideration, following out the recommendation of the commissioners, provides, that a creditor, or a specific pecuniary or

residuary legatee, or some one of the next of kin of a deceased person, may summon his executor or administrator to attend before the Master of the Rolls, or any of the vice chancellors, and obtain a summary order to show cause why the personal estate should not be administered. By General Order, 42, the summons to be obtained under this section shall be in a form similar to that set forth in schedule (E.) to the General Orders (a).

A duplicate copy of such summons shall be filed in the record office of the court, and no service of it shall be valid, unless the copy served be stamped; and the filing of such summons shall have the same effect with respect to *lis pendens* as the filing of a claim (s. 46).

By section 47, the same summary course of proceeding, provided for by section 45 with respect to personal estate, is extended to the case of real estate. It will, therefore, be competent, under this section, for a creditor of any deceased person, or any person interested under his will, in all cases, where the whole of a testator's real estate is by devise vested in trustees, who are by the will empowered to sell and authorized to give receipts for the rents and profits and for the produce of the sale of such real estate, to obtain a summary order for the administration of such real estate; adopting the precise course of proceeding prescribed in section 45.

By section 48, the court, in a foreclosure suit, is empowered to direct a sale, instead of a foreclosure, at the request of the mortgagee, or of any subsequent incumbrancer, or of the mortgagors, and without previously determining the priorities of incumbrancers, or giving any or the usual time to redeem. But no sale shall be directed on such request of a subsequent incumbrancer or the mortgagor, unless he makes such deposit as may be directed by the court. This clause has been framed to remedy an inconvenience forcibly commented upon by the Chancery Commissioners. Where a mortgagee or other incumbrancer institutes a suit for the purpose of realizing his security, all the subsequent incumbrancers, who are all sepa-

(a) Post, p. 125.

rately interested in contesting or reducing his demand, and in rendering their own securities available, are necessary parties to the suit. When the decree in such a suit is for foreclosure, the decree of foreclosure cannot be pronounced until the priorities *inter se* of all the incumbrances subsequent to the plaintiff have been ascertained; the effect of which is that the plaintiff's remedy is delayed by the necessity of settling rights between the defendants. This inconvenience does not exist where the plaintiff is entitled to a decree for sale; in such a case the estate may be sold at once, and the plaintiff's demand satisfied, the surplus remaining in court as a fund to be applied in or towards satisfaction of the claims of the defendants when ascertained.

The 49th section provides, that the misjoinder of persons, as plaintiffs, shall no longer be a reason for dismissing the suit, and that whenever it shall appear to the court that, notwithstanding the conflict of interest in the co-plaintiffs, or the want of interest in some of the plaintiffs, or the existence of some ground of defence affecting some or one of the plaintiffs, the plaintiffs, or some of them, are entitled to relief, the court shall have power to grant relief, modifying its decree according to the circumstances, and for that purpose to direct such amendments, if any, as may be necessary. And where there is a misjoinder of plaintiffs, and the plaintiff having an interest shall have died, leaving a plaintiff on the record without an interest, the court, at the hearing, may order the cause to stand revived, and proceed to a decision, if it shall seem fit.

No suit shall be open to objection on the ground, that a merely declaratory decree is sought for, and it shall be competent for the court to make binding declarations on questions arising between the plaintiffs and defendants, where they alone are interested in such questions (s. 50). This provision of the act relaxes the rule, which prevents courts of equity from executing trusts partially, and making declaratory decrees. And it shall be lawful for the court to decide between some of the parties without making others interested parties to the suit (s. 51.)

7

## CHAPTER V.

### ABATEMENT.

Abatement of suit—Bill of revivor and supplemental bill no longer necessary—An order to revive to be obtained on allegation of transmission of interest—Description given by the Chancery Commissioners of the expense attending the former practice—Inconvenience of the old mode of taking accounts—Remedy for amending the same—Books of accounts to be taken as *prima facie* evidence of the contents—Sale may be directed after institution of suit—Abstracts of title before sale—Power to allow parties interested in property, the subject of litigation, a portion or the whole of the income—New practice as to injunctions to stay proceedings at law—Reasons assigned by the Chancery Commissioners for the change—The court not to send cases for the opinion of a court of law—Legal title to relief to be decided by the courts of equity—General orders to be framed for carrying the act into effect—Increase of salaries of examiners.

IN case a suit becomes abated by reason of some change or transmission of interest or liability, a bill of revivor or supplemental bill will no longer be necessary for the revival of such suit, but an order having that effect shall be obtained on an allegation of the transmission of interest, or liability, or the acquisition of interest, or other change, and served on the parties, who, according to the existing practice of the court, would be made defendants to a bill of revivor or supplement, leaving to any person to apply to the court, if from any irregularity there should be occasion to discharge or otherwise deal with such order. And if any party so served shall be under any disability, other than coverture, such order shall have no effect against such party until a guardian ad litem be appointed (s. 52). By General Order 43, the application to discharge such order must be made within twelve days after service thereof.

Nor shall it be necessary to file a supplemental bill for the

purpose of putting in issue facts which have occurred since the commencement of the suit—such facts may be introduced as amendments to the bill (s. 53). See General Order, No. 44, *post*, p. 119, as to the manner of putting new facts in issue.

The practice intended to be amended by this section is thus described by the Chancery Commissioners:—"On the death of a plaintiff his legal personal representative or heir, as the case may be, files a fresh bill against all the parties to the original suit, who are all served and have all to enter appearances; each separate solicitor taking an office copy of the bill of revivor, for which he pays office fees. Similar proceedings take place on the marriage of a female plaintiff. Sometimes one of several plaintiffs dies, or is married, and the legal personal representative or husband is disinclined to go on as plaintiff. In this case the other plaintiffs file their bill of revivor against all the old defendants and the new parties. If a defendant dies, a similar bill is filed against his personal representative or heir. In cases of simple revivor, after the lapse of a few days, and no objection being taken, an order of course is obtained for reviving the suit, as it is technically called; the suit being, until revivor, considered abated or suspended. In the cases of revivor it nevertheless happens frequently, that an answer must be put in, and the cause formally heard, and a decree taken. The ordinary instance of this is, when the person dead was an accounting party, and it is necessary to obtain a decree charging his assets with the debt to be found due from him. The cases, moreover, in which a simple order of revivor will suffice are comparatively rare. If the transmission of interest be any thing other than simple transmission by marriage, heirship, executorship, or grant of administration, the bill must be what is called a bill of supplement. If there be a devise, or a marriage settlement, or a bankruptcy or insolvency, or a change of office, as in the case of a bishop or incumbent or the like, or if a new person has come into existence interested in the subject of the suit, a bill is in that case filed, to which answers are required, and all the formalities of a hostile chancery suit gone through, in order to obtain what is called the usual supplemental decree;



that is, a decree directing that the proceedings in the original suit may be carried on between the parties in the supplemental suit in the same way as between the original parties."

Where accounts are directed extending over a long course of years, or which have been long closed, or when from loss of evidence or death it becomes difficult to vouch each item, the parties are put to great inconvenience and expense owing to the strictness of the practice, which requires proof of each item. To remedy this inconvenience, the 54th section provides, that where any account is required to be taken, the court shall have a discretionary power of giving special directions with respect to the mode in which the account should be taken or vouched; and in cases in which the court shall think fit it shall direct that the books of account shall be taken as *prima facie* evidence of the truth of the contents, with liberty to the parties interested to take objections (s. 54).

If after the institution of a suit in respect to real estate it shall seem expedient to the court to direct a sale, such sale may be directed, and shall be as valid as if directed by a decree on the hearing of the cause (s. 55). And before any estate or interest shall be sold under a decree, an abstract of the title thereto shall be laid before a conveyancing counsel, to be approved of by the court (s. 56).

Where any real or personal property is the subject of proceedings, the court may, at any time after the commencement of the suit, allow the parties interested a portion or the whole of the annual income (s. 57).

The practice as to staying proceedings at law upon the merits of the case shall be assimilated to the practice with respect to special injunctions (a), and such injunctions may be granted

(a) The necessity for this amendment is thus stated by the Chancery Commissioners. "Besides interposing, by means of the common injunction, for the purpose of enforcing discovery, the Court of Chancery, as a necessary part of its equitable jurisdiction, restrains proceedings in actions at law by injunctions granted upon the merits; as, for instance, where there are circumstances cognizable only in equity, which make it improper that the action should go on. As a

on interlocutory application (s. 56). But by General Order, No. 45, no injunction for stay of proceedings at law is to be granted as of course for default of appearance or answer to the bill.

The answer of a defendant on a motion or petition for an injunction or receiver shall, for the purpose of evidence on such motion or petition, be regarded as an affidavit; and an affidavit may be read in opposition thereto (s. 59).

In case the directions given by the act as to practice and proceeding shall, by mistake, fail to be followed, the court may rectify such mistake and award costs (s. 60).

The Court of Chancery shall not, in any cause or matter depending before it, direct a case to be sent for the opinion of a court of law, but shall itself determine any question of law necessary to be decided previous to the decision of the equitable question between the parties (s. 61). And the court shall determine the legal title of the party seeking relief, without requiring him to proceed at law to establish the same (ss. 61, 62).

The Lord Chancellor, with the Assistance of the Master of the Rolls, the Lords Justices, and the Vice-Chancellors, or any three of them, shall make general rules and orders for carrying

general rule, the court exercises this jurisdiction only by decree or decretal order, and not by interlocutory order, unless it can be shown from the answer of the plaintiff in the action, without other materials, that the action ought to be stayed. The plaintiff at law may be an executor or assignee, and ignorant of the circumstances of the case, or his answer may be untrue; and it has not unfrequently happened, that, after the plaintiff in the action has been allowed to recover judgment and issue execution, the Court of Chancery, at the hearing of the cause, has determined, upon the evidence, that the action ought never to have been brought, and has ordered the plaintiff at law to repay the amount recovered by him, with the costs of the action. We see no reason why any difference should exist in this respect between injunctions to stay proceedings at law on the merits, and injunctions for other purposes, which, when the case calls for it, issue upon interlocutory orders; and we therefore recommend that the practice regulating injunctions to stay proceedings at law should, as far as the nature of the case will admit, be assimilated to that regulating special injunctions generally."

the act into effect; such general rules, &c. to be laid before parliament (ss. 63, 64).

The Lord Chancellor may, in consideration of the additional duty imposed by the act on the examiners of the court, increase their salaries by such sum as, in addition to what they now receive, will make up the annual sum of one thousand five hundred pounds (s. 65).

Interpretation and commencement of the act (ss. 66, 67).

## 15 &amp; 16 VICT. c. 80.

## CHAPTER VI.

## ABOLITION OF THE MASTERS' OFFICES.

Abolition of the Masters' offices—Various opinions thereupon—Recommendation of the Chancery Commissioners—Mr. James Stewart's opinion in his late work, "Suggestions as to Reform in the Law"—The judges to determine many matters hitherto disposed of by the Masters—The judges to sit at chambers—To be assisted by the chief clerks—No formal report to be henceforward necessary—When judges may take the opinion of a conveyancing counsel—Retirement of Masters James William Farrer and William Brougham—Option to the other Masters to retire according to seniority—Compensation allowances to Masters—Winding-up pending proceedings—No fresh reference to be made to Masters—The new practice at chambers to commence at the beginning of Michaelmas Term, 1852—Times of sitting at chambers—Powers of the judges to be the same as at open court sittings—Orders in chambers to be drawn up by the chief clerk—Appointment and qualifications of chief clerks—Junior clerks—Removal of chief or junior clerks—Shall be under the control of the judges.

THE act "To abolish the Office of Master in Ordinary of the High Court of Chancery, and to make provision for the more speedy and efficient Dispatch of Business in the said Court," may be regarded as one of the boldest innovations of the session which closed the existence of the late parliament. By this important measure a host of speculation and controversy has been set at rest. It silences the theories of reformers, who insisted upon the possibility of correcting the vices of the Masters' office without abolishing the office itself; whilst it vindicates the soundness of the conclusion at which those arrived, who contended for the principle of imposing (a) upon the equity

(a) When using these words, it should not be understood that the equity judges, upon whom these new and onerous duties will devolve, have evinced any indisposition to assume the burden. On the contrary, it will be seen, on reference to the evidence of Sir John Romilly and other equity judges, before the Select Committee of the House of Lords in 1851, that they have been amongst the foremost advocates of the Judge-Master principle. The plan has also had the approbation of the Law Amendment Society (January

judges the duty of working out their own decrees. With that characteristic learning and perspicuity which stamp so high a value on the Report of the Chancery Commissioners throughout, they preface the recommendation, which forms the basis of this act, with a vigorous sketch of the duties incident to the office of Master, the powers with which that functionary is invested, and the course of procedure in the office as it now exists. Whatever interest such an outline might derive from the uncertain prospects of reform at the commencement of the late session can be felt no longer. The Master's office may be now classed with institutions which belong to mere legal history—" *Quod non medicandum, ense recidendum*," appears to have been the opinion of the best judges, and its doom was sealed by the Chancery Commissioners in words deeply significant—" We are of opinion that, as far as practicable, the judicial duties of the Master should be transferred to the court. We think that such duties are best performed by the court sitting in public, with the assistance to be derived from the bar."—(1st Report, p. 31.)

This is the leading feature of the act now under considera-

12th, 1852), and of the Incorporated Law Society (December 11th, 1851), both of which bodies have made elaborate reports on the subject. It is also in practical operation in the Presidency of Bombay, where the chief justice, Sir Erskine Perry, has introduced it. One of the most strenuous advocates of the system now about to be put upon trial, Mr. James Stewart, thus propounds and argues the question. "Why should a judge not work out his own decrees, whilst they were fresh in his mind, with a proper staff of officers? \* \* \* Supposing it to be practicable, and the judges were willing, it will hardly be denied that it would be advantageous to the suitor that the judge should work his own decrees. Let any of my readers acquainted with the subject in practice, call to mind any given suit in which he may have been engaged, and the advantages of this mode of proceeding, if it can be attained, will I think be obvious. If the judge, while all the circumstances of the suit were fresh in his mind, could turn at once to the details and finish them off, the saving to the suitor of time and money would be immense. The necessity of a reference back to the judge as to the meaning of the decree, would be entirely avoided, all doubts by the Master, whether he had power to do this or jurisdiction to do that would be at an end. Besides this, by so much as a judge is better than a Master, the suitor would in that proportion be benefited." (Suggestions as to Reform in the Law, p. 50.)

tion, and, in accordance with the recommendations of the Commissioners, it provides, as a substitute for the present proceedings in the Masters' offices, a course of proceeding which dispenses altogether with the continuance of the office of a Master in Chancery. It further provides that the court itself shall determine many matters which are now referred for inquiry to the Master; that certain judges of the courts shall sit at chambers for the purpose of disposing of such matters as cannot conveniently be disposed of in open court; that officers shall be attached to the several courts to perform the duties now usually performed by the Masters' chief clerks, and that such officers shall also be employed in verifying the facts stated in petitions, and in making inquiries for the guidance of the judge, who will be able to act without the delay and formality of a report; that in cases, where, as for instance in the investment of trust monies on mortgage by the court, or a sale of the estate, the Master has been in the habit of referring the title to some conveyancing counsel, the court shall receive the opinion of such counsel; and, lastly, that the court shall be empowered to make reference, in suitable cases, to merchants, accountants, engineers, actuaries and other scientific or professional persons. There are other provisions with respect to the method of proceeding in references generally.

The 1st section abolishes the office of Master, subject to the execution by the Masters of the duties thereafter provided for.

Sect. 2 provides that no future vacancies in the office shall be filled up.

By the 3rd section, Masters James William Farrer and William Brougham shall be released from their duties on the first day of Michaelmas Term next, and a power given to the Lord Chancellor to release other Masters when the state of the business in their courts shall admit of it, but not to release them from attendance on the House of Lords without their lordships order.

The 4th section gives the Masters the option to retire according to seniority; and when the Lord Chancellor shall be of

opinion that their services are no longer necessary, he may release every remaining Master.

The Masters' salaries and compensation allowance shall be continued by way of retiring pensions (s. 5); payable out of the same funds, and in the same manner, as their present salaries (s. 6).

In order to wind up all matters depending before them with as much expedition as possible, the Masters shall have the power to summon parties or their solicitors, and to settle and wind up proceedings pending before them, and may proceed for such purpose in the absence of the parties or their solicitors (s. 7).

The court shall, upon a Master's report and certificate, make an order for the prosecution or final disposal of any suit, and for payment of costs (s. 8).

In case of the refusal or neglect of parties to bring the Master's report before the court, the solicitor to the suitors' fee fund may do so, and have his costs provided for (s. 9).

No fresh references shall be made to the Masters after the first day of Michaelmas Term, 1852, except in cases already before them, and in matters under the Winding-up Acts; and until all the Masters shall be released from their duties, those remaining shall prosecute all the business depending (s. 10).

The 11th section gives immediate effect to the new chambers practice; and without waiting for the release of more than the two Masters named in section 3, it provides that, from and after the first day of Michaelmas Term, 1852, the Master of the Rolls and the Vice-Chancellors shall sit at chambers for despatch of such business as may be properly disposed of out of court; the times when they shall sit to be fixed by them respectively, and chambers attached to their courts to be provided by the Lord Chancellor (s. 12).

The Master of the Rolls and Vice-Chancellors, when sitting in chambers, shall have the same power and jurisdiction as when sitting in open court (s. 13).

The orders made in chambers shall be drawn up by the judge's chief clerks, with power to the judges to require the attendance at chambers of the registrars of the court (s. 14).

All orders made at chambers by judges shall have same force and effect as orders of court, and shall be signed and enrolled in like manner (s. 15).

The next section gives power to the judges to appoint two chief clerks to each court to assist in the business of the court (s. 16), and no person shall be appointed, except a chief clerk to a Master in ordinary, or a solicitor of ten years' standing and practice; three of the present chief clerks to be chief clerks of three of the equity judges (s. 17).

A junior clerk may be appointed by the judge of each court to each chief clerk (s. 18).

The Lord Chancellor shall have the power of removing any officer appointed under the act engaging in any other employment, or accepting any fee or emolument whatever other than his salary (s. 19).

Every solicitor appointed to any office under the act shall procure himself to be struck off the rolls of solicitors of the Court of Chancery and of the courts at Westminster (s. 20).

Every chief clerk shall hold his office during good behaviour, but subject to removal by the Lord Chancellor and judges (s. 21). Every junior clerk shall hold his office during the pleasure of the judge to whose court he is attached (s. 22). And both chief and junior clerks shall be under the control and direction of the judges (s. 23), and be subject to the same penalties as are imposed by 3 & 4 Will. 4, c. 94, as respects officers of the Court of Chancery (s. 24). The Lord Chancellor, with the concurrence of the judges, may remove any chief clerk without assigning cause of removal (s. 25).



## CHAPTER VII.

## BUSINESS TO BE DONE IN CHAMBERS.

General class of business at chambers—Proceeding at chambers to be by summons—Duties and powers of chief clerks—Result of proceedings before chief clerk to be in the form of a short certificate—No formal report to be made, unless when the judge shall so direct—No exceptions to lie to certificate or report—Jurisdiction of Masters under the Chancery Regulation Act—Judges to have the powers now exercised by the Masters—General rules and orders to be framed by the Lord Chancellor and judges, and business to be done conformable thereto—Power to take the opinion of conveyancing counsel—Liberty to parties to object thereto—Conveyancing counsel—Court may take the opinion of accountants, &c.—Fees to conveyancing counsel—Salaries and compensations on retirement of chief and junior clerks—Appointment of Masters and chief clerks to other offices—Power to retired Lord Chancellor to send in written judgments after resignation.

THE 26th section specifies the general class of business to be done by the judges at chambers, viz. entertaining applications for time to plead, answer or demur; for leave to amend bills or claims; for enlarging publication; for production of documents; applications relating to the conduct of suits or matters; as to the guardianship and maintenance of infants; matters connected with the management of property, &c. (s. 26). The judges to have power to adjourn from open court to chambers, and *vice versa*, the consideration of any matter (s. 27).

By sect. 28 the mode of proceeding before the judges at chambers shall be by summons, and in conformity with the mode adopted by the common law judges.

Sect. 29 empowers the judges to direct what matters shall be heard and investigated by themselves, and what by their chief clerks; the latter to take accounts; and the suitor shall have the right to bring any point before the judge. Sect. 30 authorizes each chief clerk to issue advertisements,—to summon

parties and witnesses,—to administer oaths, &c., and, when directed by the judge, to examine witnesses.

Parties so summoned not attending shall be liable to process of contempt, and to the usual penalties for false swearing (s. 31).

The directions to be given by the judges as to proceedings before each chief clerk shall not require any particular form; but the result of such proceedings shall be embodied in the form of a short certificate, and not in that of a formal report, unless the judge shall so direct (s. 32).

No exceptions shall lie to such certificate or report, though signed by the judge, but parties shall be at liberty to take the opinion of the judge upon any particular point (s. 33).

The certificate or report, when signed by the judge, shall be binding on the parties, unless discharged or varied (s. 34).

In addition to the duties performed by the Masters under references, they exercise original jurisdiction in some cases under the authority of the Chancery Regulation Act (8 & 4 Will. 4, c. 94), by which applications to amend the plaintiff's bill, for time to answer, and to enlarge publication, are directed to be made before the Master. Sect. 35 accordingly provides, that from and after the first day of Michaelmas Term, 1852, the 13th, 14th and 15th sections of the said act be repealed.

Sect. 36 gives the judges the power generally which are now exercised by the Masters; and sect. 37 specifically confers those which are created by the 7th, 8th and 9th sections of this act, as to the disposal of causes and matters depending in chambers or in open court.

Sect. 38 empowers the Lord Chancellor, with the concurrence of the other equity judges, to make general rules and orders for regulating the mode of procedure at chambers,—the fees and allowances to solicitors.

The business in the Masters' offices shall, after the commencement of the act, be conducted in accordance with the directions of the act, and the general rules and orders to be framed by the Lord Chancellor and judges, and in all other respects in the same manner as similar business shall be conducted

by the judges, except that instead of directly communicating with the judge, the Master shall shortly report the result of his inquiries (s. 39).

The judges at chambers shall have power to take the opinion of conveyancing counsel in all cases in which it was usual for the Masters to take such opinion; parties to be at liberty to object to such opinion, and the objection to be disposed of by the judge either in open court or at chambers (s. 40).

By sect. 41 the Lord Chancellor is empowered to nominate for the foregoing purpose not less than six conveyancing counsel of ten years' practice, and to distribute the business between them in such order and manner as he shall deem fit (a).

And for the further assistance of the court, sect. 42 enables the judges to obtain the aid of accountants, merchants, engineers, actuaries, or other scientific persons, and to act upon the certificate of such persons.

The taxing Master shall regulate the fees to conveyancing counsel, accountants, &c., subject to an appeal to the judge (s. 43).

A yearly salary of £1200 shall be paid to the chief, and of £250 to each junior clerk, with power to Lord Chancellor to increase the same to £1500 and £300 respectively; no increase to a chief clerk until he shall have been in office three years, and none to a junior until he shall have been five (s. 44).

The Lord Chancellor, with the consent of the Commissioners of the Treasury, may make an order, on the petition of a chief or junior clerk, granting him in case of permanent infirmity a pension not exceeding two-thirds his salary (s. 45).

The 46th section provides that, on the retirement of the Masters, their chief clerks shall be entitled to the full amount of their salaries, as retiring pensions; and sect. 47 provides that, on such retirement, the junior clerks of the Masters shall be entitled to such annual compensation as the Commissioners

(a) The following gentlemen have been appointed to the offices of conveyancing counsel:—Mr. Brodie, Mr. Coote, Mr. Christie, Mr. Hayes, Mr. Jarman. and Mr. Lewin.

Messrs. Whiting, Leeman and Pugh, chief clerks to the Masters, have received the appointment of chief clerks to the Equity Judges.

of the Treasury shall upon inquiry deem just and reasonable. Sect. 48 directs that all salaries, except as otherwise provided for by the act, shall be paid quarterly, out of the Suitors' Fee Fund Account; and by sect. 49, all payments of compensations shall be paid quarterly, out of the parliamentary securities standing in the name of the Accountant-General of the Court of Chancery.

On appointment of Masters or clerks to any office connected with the courts of law or equity, or to any office or employment under the crown, the retiring pension or compensation under this act shall be regulated by the salary attached to such office or employment (s. 50).

Sect. 51 authorizes the sale of the Masters' offices in Southampton Buildings, when no longer required for the purposes of the act.

Sect. 52 empowers her Majesty to appoint a Vice-Chancellor as successor to Sir G. S. Turner, whenever the office now held by the latter shall become vacant by death, resignation, or removal. Sect. 53 prescribes the status of such Vice-Chancellor; and sects. 54 and 55 provide for the appointment of his secretary, usher and train-bearer, and even keepers. Sects. 56 and 57 fix the amount of the salary and retiring pension of such Vice-Chancellor.

By sect. 58 the rights, salaries, titles and establishments of the present Masters are to continue until released in pursuance of this act.

Sect. 59 saves the rights of the accountant-general as a Master in ordinary.

Sect. 60, after reciting the inconvenience to the suitor of not obtaining the judgment of the Lord Chancellor when the latter resigns the great seal, and has been prevented thereby from giving judgment, provides that in every such case the retiring Lord Chancellor may deliver in a written judgment within six weeks after his resignation.

Sect. 61 specifies the construction to be put on certain terms in the act.

## 15 & 16 VICT. c. 87.

---

### CHAPTER VIII.

#### ABOLITION OF PRESENT FEES.

---

Substitution of fixed salaries for fees now received by officers of the courts—When existing mode of payment shall cease—Allowances to clerks of the court for copies of proceedings to be discontinued—Collection of new fees by means of stamps—*Ad valorem* payments on the income of lunatics—Salary of Lord Chancellor—the Lords Justices and the last appointed of the Vice-Chancellors—Future allowances to the Accountant-General—Rights of Accountant-General as Master not to be affected—Brokerage—Salary of future Accountants-General—Certain offices abolished—New scale of salaries and new classification of duties—Orders in lunacy—Monies of suitors—General orders to be framed to carry the act into effect—Sales of land and other property may be made by officers without being liable to the duties payable by auctioneers—Compensation to holders of abolished offices—Provision for the general expenses of the court—Surplus interest arising out of Suitors' Fund to become part of the Suitors' Fee Fund—Conclusion.

---

“THE Act for the Relief of the Suitors of the High Court of Chancery” constitutes not the least important of the recent legislative reforms. After reciting the expediency of substituting fixed salaries for the fees now payable to several of the officers, and of relieving the suitors of the court from the further payment of such fees, sect. 1 provides, that, from and after the 28th of October next, no officer of the court, or of the other judges of the court, shall receive any fee whatsoever, but in lieu thereof shall, so long as they continue to hold their respective offices, be paid such salaries as shall be fixed by the commissioners of her majesty's treasury. The existing mode of payment is, however, to be continued, until the Lord Chancellor shall otherwise order, and all fees which they shall receive after the 28th day of October, 1852, shall be paid by them monthly into the suitors' fee fund (s. 2).

And from the same date no officer shall receive any gratuity for anything done in relation to his office, on pain of dismissal

and of being prosecuted for a penalty of five hundred pounds, which prosecution may be either by information at the suit of the attorney-general, by criminal information in the Court of Queen's Bench, or by indictment (ss. 3, 4).

From the last-mentioned date all present allowances to certain clerks of the court for copying shall cease, and the Lord Chancellor shall make such order as to the making and delivery of copies of the pleadings and other proceedings of the court, and of the future payments for the same, as may from time to time be deemed expedient (s. 5).

The 6th, 7th, 8th, 9th, 10th, 11th, 12th and 13th sections provide respectively for the collection of certain fees by means of stamps, which are to be substituted for money payments; the stamps to be affixed to the document in respect to which the fee would be payable. The commissioners of inland revenue are, on the order of the Lord Chancellor, to give the necessary direction for carrying the provisions of the act as to such stamps into effect, and to pay the monies which they shall receive for the same into the suitors' fee fund. Provisions are made for the sale of stamps,—for allowances where stamps have been used through inadvertence, or spoiled,—for the supply of stamps under the former acts,—for the prevention of frauds,—the rejection of documents that are not properly stamped, and the punishment of such officers as may be guilty of misconduct in relation to such stamps.

Sect. 14 introduces a similar course of collection of fees by means of stamps in lunacy cases; but the Lord Chancellor may direct that in lieu of such fees an *ad valorem* payment shall be made on the annual income of lunatics, and on the amount of the taxed costs incurred in proceedings in lunacy. And by s. 15 the jurisdiction by 1 Will. 4, c. 65, by "The Trustee Act, 1850," and by any other acts to the Lord Chancellor entrusted with the care of lunatics, may be exercised by the persons for the time being so entrusted.

By sect. 16, the salaries of the Lord Chancellor, the Lords Justices of the Court of Appeal, the Vice-Chancellor for the time being appointed under 5 Vict. c. 5, and the Vice-Chan-

cellor appointed under the 14 & 15 Vict. c. 4, shall be paid in future out of the consolidated fund, and on the four usual quarterly days of payment. The 61st sect. of 5 Vict. c. 5, which directs the accountant-general of the Court of Chancery to pay certain interest, repealed (s. 17). The brokerage heretofore received by the accountant-general shall be paid by him into the suitors' fee fund (s. 18); and in lieu thereof, and in addition to his present allowance for books and stationery, he shall receive the net yearly salary of 2700*l.* (s. 19). Nothing in the act is to affect the rights of the present accountant-general as a Master of the Court of Chancery (s. 20).

The Commissioners of the Treasury shall make regulations as to the broker to be employed in transacting the business of the Court of Chancery, and as to the amount of his commission (s. 21).

The salary of all future accountants-general shall be 3000*l.* per annum (s. 22).

From the 28th of October next the following officers of the Lord Chancellor's shall be removed, and their offices abolished: the keeper or clerk of the hanaper, deputy clerk of the hanaper, secretary of decrees and injunctions, one of the two gentlemen of the chamber attending the great seal, the chaff wax, the deputy chaff wax, the sealer and the deputy sealer, and their duties shall be performed by the clerk of the crown in Chancery and the purse bearer to the Lord Chancellor (s. 23).

The salaries to be paid in future to the following officers of the Court of Chancery shall be—to the principal secretary of the Lord Chancellor, 1200*l.*; to the gentlemen of the chamber attending the great seal, 500*l.*; and to the train bearer of the Lord Chancellor, 200*l.*; and the Lord Chancellor may appoint a clerk in the office of the principal secretary at a salary of 200*l.* (s. 24).

The secretary of presentations and the secretary of commissions of the peace shall pay all fees received by them by virtue of their offices once in six months into the consolidated fund (s. 25); and the persons or person holding these offices shall be paid an annual salary of 800*l.* (s. 26).

From the 28th of October next, the offices of the patentee of the subpoena office, the deputy of the patentee of the subpoena office, the clerk of affidavits, the assistant clerk of affidavits, the second assistant clerk of affidavits, the clerk of reports, the doorkeeper, the crier and the usher of the Court of Chancery, shall be abolished (s. 27).

The duties of the subpoena office and of the affidavit office shall after the above date, be performed by the clerk of records and writs; but affidavits and affirmations may be made before the clerk of inrolments for the better despatch of business (s. 28, 29).

All orders in lunacy, when drawn up and signed, shall be entered by an officer, to be styled the Registrar in Lunacy; and office copies of such orders, signed, sealed and stamped by him, shall be furnished to such persons as may require the same; and such office copies shall be admitted as evidence of the orders of which they purport to be copies (s. 30).

Orders in lunacy relating to the payment of money, or the transfer, &c. of stock, shall be acted on in like manner as if drawn up by the Registrar of the Court of Chancery, and entered according to the mode heretofore in force (s. 31).

All certificates and reports of the Master in Lunacy shall be filed in the office of the Registrar in Lunacy (s. 32).

Forging the signature of the Registrar in Lunacy, or tendering in evidence any document with the counterfeit signature of such Registrar, shall be felony (s. 33).

The Master of Reports and Entries shall, as well as the Registrars, countersign notes and cheques for the payment of money, in such manner and subject to such rules as the Lord Chancellor shall order (s. 34); and the Master of Reports and Entries shall perform such other duties as the Lord Chancellor shall direct (s. 35).

The accounts of the monies, securities, and effects belonging to suitors, kept at the report office, shall be discontinued, and the offices of clerks of accounts abolished, and any note or cheque for the payment of money signed by the Accountant-General, and countersigned by the Master of Reports and Entries,



or by one of the Registrars of the court, shall be sufficient authority to the Bank of England to pay the money (s. 36).

The Lord Chancellor may frame general orders for carrying the provisions of the act, with reference to the abolition of offices, and generally, into effect; and he may vary or annul such orders as he may think fit (ss. 37, 38).

The duties to be performed by the clerks in the Accountant-General's office shall be fixed by the Lord Chancellor, and the salaries to be paid to such clerks shall be such as the Lord Chancellor and the Commissioners of the Treasury shall direct (s. 39).

The clerks of the Taxing Masters shall be paid, instead of the salaries which they receive, under 5 & 6 Vict. c. 103, a salary of 350*l.* a year each (s. 40).

The deposit payable on setting down appeals shall be paid to the senior Registrar of the court, who shall pay the same into the bank, to be placed to the account of "The Appeal Deposit Account" (s. 41).

Masters of the Court of Chancery and their chief clerks, and any other person appointed by them, may sell any interests in lands or goods under an order of the Court of Chancery, without being liable to the duty imposed by 8 & 9 Vict. c. 15 (s. 42); and the above officers shall be discharged from all liabilities which they may have incurred in respect of former sales (s. 43).

Certain officers, whose salaries shall have been diminished by the operation of the act or the orders to be made thereunder, may make claims for compensation to the Commissioners of the Treasury (s. 44).

Any person holding an office for life, or during good behaviour, which shall be abolished by this act, and to which an annual salary is annexed, shall receive the full amount of such salary for life, as compensation; and any person holding such office, and now paid by fees, shall receive during his life the annual average amount of such fees during the three years preceding the passing of the act, as compensation (s. 45).

The Lord Chancellor may, on application by petition of certain officers, in case of infirmity or after a service of twenty

years, make an order for granting them such superannuation allowance as the Commissioners of the Treasury shall consider just (s. 46).

Disabled officers refusing to retire may be removed by order of the Lord Chancellor, and receive two-thirds of yearly salary as compensation (s. 47).

All salaries shall grow due from day to day, but be payable quarterly out of suitors' fund (s. 48).

The compensations to the clerk of the hanaper, deputy clerk of the hanaper, chaff wax, deputy chaff wax, sealer and deputy sealer, shall be paid out of the consolidated fund (s. 49). But all other compensations or retiring allowances shall be paid out of the suitors' fund (s. 50). And all salaries payable out of the suitors' fund shall, instead of the former days of payment, be paid on the 3rd of February, 3rd of May, 3rd of August, and 3rd of November in each year, a proportionate part of the salary to be paid in case of death or resignation.

Sect. 52 empowers the Lord Chancellor to provide for the general expenses of the court, inclusive of suitable courts and rooms, the care and cleansing of them—rents, taxes, insurance, books and stationery—printing, coals and candles, and all other necessary expenses; and it authorizes the Master of the Rolls to appoint a clerk or clerks in the office of the secretary of the rolls, at a salary not exceeding 300*l*.

By the 53rd section, in order to carry out the reduction of fees hitherto payable into the suitors' fee fund, and to keep the latter fund up to an amount sufficient to defray the charges thereon, it is provided that the surplus interest arising out of the suitors' fund shall be from time to time carried over to and become a part of the suitors' fee fund. And in case of a surplus or deficiency in the amount of the suitors' fee fund, the Lord Chancellor may direct the investment of such surplus, or the said deficiency, to be supplied by carrying to the account of the suitors' fee fund such sum as may be necessary of the interest arising from the securities standing to the "Account of Monies placed out to provide for the Officers of the High Court of Chancery" (s. 54).

Interpretation clause.

## CONCLUSION.



ON reviewing the many and important alterations effected in the procedure and practice of the Court of Chancery by the acts thus given in abstract, may not every genuine friend of the improvement of our legal institutions be solaced by the cheering survey (a)? Amongst the amendments most likely to attract him will be no doubt the substitution of a concise printed form of bill for the prolix and cumbrous repetitions of the old system of equity pleading; and whilst he commends the new and rational forms in which a plaintiff will be required to state his case to the court, he will not undervalue a corresponding, and, indeed, consequential, brevity in the style and structure of the defendant's answer. The provision, by which the administration of interrogatories to a defendant shall in future become a proceeding disconnected with the bill as a mere pleading, will, however, in some instances, leave the defendant under the same necessity as before of answering circumstantially and in detail.

(a) Lord Brougham writes in this spirit to Lord Lyndhurst, in a letter published in the *Law Review* for May:—"After the bill is passed, and the new system is become the law of the land, there will be time enough to dwell on the share which belongs to each of our fellow-labourers in bringing about a consummation so long and so devoutly wished for. Suffice it for the present to say, that really no party is without great claims on our gratitude, and (a rare felicity!) none seem to deserve any blame; all have acted both honestly and ably; as well my friends of the late government, who had entirely adopted, and were actively preparing to give effect to, the Report of the Commission, a body above all praise, as your friends and *protégés* of the present government, whose leader has amply redeemed the pledge he gave me, while the Chancellor has gone farther than he had at first led me to hope. I say nothing for the present of others to whom public gratitude is justly due."

But whilst the legislature will be observed to have adopted the most approved method of simplifying and condensing the record, as regards both bill and answer, the power which it has given the Lord Chancellor to reanimate the suspended practice argues no slender distrust in the practical efficacy of those particular amendments. The clause, which prohibits the introduction into any suit of the name of any person as the next friend of any infant, married woman or other party without the written authority of such person, will prevent the repetition of such an injustice as occurred in a recent case (*a*).

Passing on, however, from farther minor changes to the great features of the new equitable revolution, the reformer of the law will find, in the provisions which are to regulate the whole course of evidence in the courts of equity, the fulfilment of the most authoritative opinions on that important subject. The existing practice of examining witnesses in private on written interrogatories—of taking evidence in London before an examiner of the court and in the country before a commissioner—the mode in which those interrogatories are prepared beforehand—the necessity of producing several witnesses to prove the same facts, from the uncertainty whether one witness (who, if examined orally and in public, would have been found sufficient) has proved the facts necessary to be established—the futility of a cross-examination on written cross-interrogatories, aptly described by the present Lord Chancellor as a “mere farce”—the tendencies to mislead and deceive, from the circumstance that the depositions, which apparently proceed from the mouth of the witness, proceed in reality from the pen of the draughtsman—the “drilling and cramming” of witnesses—but, above all, the secrecy and irresponsibility of the present course of examination—have been too forcibly exposed by the Chancery Commissioners to require more than a grateful reference to the remedies, which have been devised for the discovery of truth and the detection of falsehood. These consist partly in an amended system of affidavit evidence, subject to the personal cross-examination of the wit-

nesses, partly in a method of oral examination borrowed from that in use in the courts of common law in the case of a witness about to go abroad, the court having power at the hearing to require the production and oral examination before itself of any witness or party in the cause; but the main recommendation of the reformed system will be found in the publicity with which the evidence will be taken, and the opportunities afforded to the parties to direct its application and test its credibility.

Nor will the valuable amendments which have been introduced for the shortening and rendering more summary the proceedings now instituted for the administration of real and personal estate fail to be appreciated.

But the most substantive amelioration of the new chancery code will be found in the series of rules which have been framed to regulate the practice of the court as to parties. By these the number of parties will be materially diminished, the consequent necessity for employing a corresponding number of solicitors done away with, and a large saving of expense to the suitors effected.

The observations of the Chancery Commissioners on the enormous cost and harassing delays entailed by the necessity of filing bills of revivor and bills of supplement have had their due weight with the legislature. Here, too, the principle of summariness has been adopted, and one of the most vexatious occasions of delay and expense put an end to.

Amongst the other improvements, that come under the head of procedure and practice, may be mentioned the power conferred on the court in foreclosure suits, to direct a sale at the instance of the mortgagee, on such terms as it may think proper, and also at the instance of the mortgagor on his making a deposit—the new rule with respect to misjoinder of plaintiffs—the removal of the objection to a suit that it seeks a decree merely declaratory—the abolition of the practice of setting down a cause merely on an objection for want of parties—the new practice as to injunctions—the discontinuance of the practice of the Court of Chancery sending cases for the opinion of a court of law—the abolition of the Master's Office—the devolution on the

Master of the Rolls and Vice-Chancellors of the duties hitherto performed by the Masters—the doing away with reports, charges and discharges, and the establishment of a mode of taking accounts more in unison with the business manner in which they are generally taken—and, lastly, the vast and substantial relief afforded to suitors in equity by the abolition of fees—the substitution of a fixed rate of stamp charges—the extinction of sinecures, and the general adaptation of the official machinery of the court to the more efficient discharge of the duties assigned to it. Who can turn from an examination so interesting without feeling that a great blessing has been at length realized for the community, and (be it said to the honour of the legal profession) realized with their heartiest good will? Who can retire from the gladdening retrospect without being convinced that a boon has been conferred of priceless and incalculable value? In these enactments we behold the stride of civilization and the beacon of progress. They will redeem the character of a tribunal, which, with all its defects, has never ceased to be venerable; they will be the means of attracting within the precincts of the highest temple in which the justice of this country is administered thousands of our fellow-subjects who dare not cross its vestibule under the old *régime*. It is a noble conquest for society, I might say, for public honesty and virtue. “No storied urn nor animated bust” may record the merits of what Plowden has called the “blessed” hands that have achieved this work, but the great victory of peace will be celebrated in the ascendancy of right over chicane, and of prompt justice over ruinous and dilatory technicality. Who, in fine, can contemplate the prospect unveiled by these amendments, without feeling that the victories of peace are not of inferior brilliancy to those of war. “As this your dominion spreads,” says Bentham, in words not less just than eloquent, “not tears and curses, but smiles and blessings will attend your conquest in its course. Where the fear of his sword ends, there ends the empire of the military conqueror. To the conquest to which you are here invited, no ultimate limits can be assigned other than those which bound the habitable globe.

To force new laws upon a reluctant and abhorring people is, in addition to unpunishable depredation, the object and effect of vulgar conquest. To behold your laws not only accepted, but sought after—sought after by an admiring people—will be yours” (c).

(c) From an article in the Edinburgh Review, vol. 29, ascribed to the illustrious pen of Sir Samuel Romilly.

## STATUTES.

---

15 & 16 VICT. c. 86.

*An Act to amend the Practice and Course of Proceeding in the High Court of Chancery.*

[1st July, 1852.]

WHEREAS it is expedient to amend the practice and course of proceeding in the high Court of Chancery: Be it enacted by the Queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

1. From and after the time herein-after appointed for the commencement of this act, the practice of engrossing on parchment bills of complaint or claims to be filed in the said court, and of filing such engrossment, shall be discontinued; and the clerks of records and writs of the said court shall receive and file a printed bill of complaint or claim, in lieu of an engrossment thereof, in like manner as they now receive and file such engrossment.

Practice of engrossing bills on parchment discontinued, and a printed bill to be filed instead.

2. The writ of subpoena to appear to and answer a bill of complaint in the said court, and the writ of summons upon a claim, shall respectively be abolished.

Writs of subpoena and summons to be abolished.

3. In lieu of serving the defendant to a bill of complaint in the said court with a writ of subpoena to appear to and answer the same, and in lieu of serving the defendant to a claim in the said court with a writ of summons upon such claim, in the mode and according to the practice now adopted in the said court with reference to such writs respectively, the defendant shall be served with a printed bill of complaint or claim, with an indorsement thereon, in the form or to the effect set out in the schedule to this act, with such variations as circumstances may require, such printed bill of complaint or claim so to be served being previously stamped with a proper stamp by one of the

Defendants to be served with a printed bill in lieu of the writs of subpoena and summons.



The filing and service of a printed bill or claim to have the same effect as the filing and issuing of writs of subpoena and summons.

As to service of printed bill.

Written copies of bills may be served in certain cases upon plaintiff undertaking to file a printed copy in fourteen days.

Plaintiff to deliver printed copies of bill or claim at rate prescribed by Lord Chancellor.

clerks of records and writs, indicating the filing of such bill of complaint or claim, and the date of the filing thereof.

4. The filing of a printed bill of complaint or claim in the said court shall have the same effect as the filing of a bill of complaint or claim in the same court, and the issuing of a subpoena or writ of summons thereon respectively, now have, and the service upon the defendant of a printed bill of complaint or of a claim so filed, with such endorsement thereon, so stamped as aforesaid, shall have the same effect as the service on him of a writ of subpoena or writ of summons respectively now has, and shall entitle the plaintiff in such suit to such remedies for default of appearance and otherwise as he is now entitled to in case of due and proper service of a subpoena to appear to and answer a bill of complaint or of a writ of summons upon a claim.

5. The service upon any defendant of a printed copy of a bill of complaint or of a claim in the said court shall be effected in the same manner as service of a writ of subpoena to appear to and answer a bill of complaint is now effected, save only that it shall not be necessary to produce the original bill or claim, which will be on the files of the court; provided that the court shall be at liberty to direct substituted service of such printed bill or claim, in such manner and in such cases as it shall think fit.

6. Notwithstanding the provisions herein-before contained, the clerks of records and writs of the said court may receive and file a written copy of any bill of complaint praying a writ of injunction or a writ of ne exeat regno, or filed for the purpose either solely or among other things of making an infant a ward of the said court, upon the personal undertaking of the plaintiff or his solicitor to file a printed copy of such bill within fourteen days, and every bill of complaint so filed shall be deemed and taken to have been filed at the time of filing the written copy thereof; and a written copy of any such bill of complaint, stamped as aforesaid, and with such endorsement thereon as aforesaid, may be served on any defendant thereto, and such service shall have the same effect as the service of a printed copy.

7. The plaintiff in any suit to be commenced in the said court after the time herein-after appointed for the commencement of this act shall be bound to deliver to the defendant or his solicitor, upon application for the same, such a number of printed copies of his bill of complaint or claim as he shall have occasion for, upon being paid for the same

at such rate as shall be prescribed by any general order of the Lord Chancellor in that behalf.

8. Upon the amendment of any bill of complaint or claim to be filed in the said court after the time herein-after appointed for the commencement of this act, the provisions herein-before contained with respect to filing and serving and delivering printed copies thereof shall, so far as may be, extend and be applicable to the bill or claim as amended: provided that where, according to the present practice of the said court, an amendment of a bill or claim may be made without a new engrossment thereof, or under such other circumstances as shall be prescribed by any general order of the Lord Chancellor in that behalf, a bill or claim may be wholly or partially amended by written alterations in the printed bill of complaint or claim so to be filed as aforesaid.

Provisions as to filing, &c. prints of original bill extended to amendments.

In certain cases a printed bill may be wholly or partially amended.

9. It shall be lawful for the Lord Chancellor from time to time to make any order or orders directing that the provisions herein-before contained as to printing or otherwise shall be discontinued or suspended until further order, and to direct that all or any of the present practice as to the filing of bills and claims, and the issuing and service of subpoenas and writs of summons, may be revived and come into operation as if this act had not passed.

Power to Lord Chancellor to revive the present practice as to filing of bills, &c.

10. Every bill of complaint to be filed in the said court after the time herein-after appointed for the commencement of this act shall contain as concisely as may be a narrative of the material facts, matters and circumstances on which the plaintiff relies, such narrative being divided into paragraphs numbered consecutively, and each paragraph containing, as nearly as may be, a separate and distinct statement or allegation, and shall pray specifically for the relief which the plaintiff may conceive himself entitled to and also for general relief; but such bill of complaint shall not contain any interrogatories for the examination of the defendant.

Bills of complaint to contain concise narratives of material facts, &c., divided into numbered paragraphs, but not to contain interrogatories.

11. Before the name of any person shall be used in any suit to be instituted in the said court as next friend of any infant, married woman or other party, or as relator in any information, such person shall sign a written authority to the solicitor for that purpose, and such authority shall be filed with the bill, information or claim.

Person whose name is used as next friend of any infant, &c. in any suit, &c., to sign a written authority.

12. Within a time to be limited by a general order of the Lord Chancellor in that behalf, the plaintiff in any suit in the said court commenced by bill may, if he requires an answer from any defendant thereto, file in the record office

Interrogatories to be filed in record office by plaintiff within time prescribed.

of the said court interrogatories for the examination of the defendant or defendants, or such of them from whom he shall require an answer, and deliver to the defendant or defendants so required to answer, or to his or their solicitor, a copy of such interrogatories or of such of them as shall be applicable to the particular defendant or defendants; and no defendant shall be called upon or required to put in any answer to a bill unless interrogatories shall have been so filed and a copy thereof delivered to him or his solicitor within the time so to be limited or within such further time as the court shall think fit to direct.

Defendants may answer without leave within the time now allowed, though not required so to do by plaintiff:

but after that time defendant must have leave.

13. Whether the plaintiff in any suit in the said court commenced by bill does or does not require any answer from the defendant or any one or more of the defendants to the bill, such defendant or defendants may, without any leave of the court, put in a plea, answer or demurrer to the plaintiff's bill within the time now allowed to the defendant for demurring alone to a bill, or within such other time as shall be fixed by any general order of the Lord Chancellor in that behalf; but after that time a defendant or defendants not required to answer the plaintiff's bill shall not be at liberty to put in a plea, answer or demurrer to the bill, without leave of the court; provided that the power of the court to grant further time for pleading, answering or demurring to any bill, upon the application of any defendant or defendants thereto, whether required to answer the bill or not, shall remain in full force, and shall not be in anywise prejudiced or affected; provided also, that if the court shall grant any further time to any defendant for pleading, answering or demurring to the bill, the plaintiff's right to move for a decree under the provisions herein-after contained shall in the meantime be suspended.

Defendant's answer may contain not only answer to interrogatories, but statements material to his case.

14. The answer of the defendant to any bill of complaint in the said court may contain, not only the answer of the defendant to the interrogatories so filed as aforesaid, but such statements material to the case as the defendant may think it necessary or advisable to set forth therein, and such answer shall also be divided into paragraphs numbered consecutively, each paragraph containing as nearly as may be a separate and distinct statement or allegation.

Plaintiff may, on expiry of time for answering, but before replication, move for a

15. The plaintiff in any suit commenced by bill shall be at liberty, at any time after the time allowed to the defendant for answering the same shall have expired (but before replication), to move the court, upon such notice as shall in that behalf be prescribed by any general order of the Lord Chancellor, for such decree or decretal order as he

may think himself entitled to; and the plaintiff and defendant respectively shall be at liberty to file affidavits in support of and in opposition to the motion so to be made, and to use the same on the hearing of such motion; and if such motion shall be made after an answer filed in the cause, the answer shall, for the purposes of the motion, be treated as an affidavit.

decree or decretal order.

Affidavits may be filed.

16. Upon any such motion for a decree or decretal order, it shall be discretionary with the court to grant or refuse the motion, or to make an order giving such directions for or with respect to the further prosecution of the suit as the circumstances of the case may require, and to make such order as to costs as it may think right.

Court may refuse or grant such motion, or make order for further prosecution, &c.

17. The practice of excepting to bills, answers, and other proceedings in the said court, for impertinence shall be and the same is hereby abolished: Provided always, that it shall be lawful for the court to direct the costs occasioned by any impertinent matter introduced into any proceeding in the said court to be paid by the party introducing the same, upon application being made to the court for that purpose.

Practice of excepting to bills, answers, &c. for impertinence abolished.

Proviso as to costs.

18. It shall be lawful for the court, upon the application of the plaintiff in any suit in the said court, whether commenced by bill or by claim, and, as to a suit commenced by bill, whether the defendant may or may not have been required to answer the bill, or may or may not have been interrogated as to the possession of documents, to make an order for the production by any defendant, upon oath, of such of the documents in his possession or power relating to matters in question in the suit, as the court shall think right; and the court may deal with such documents, when produced, in such manner as shall appear just.

Court or judge may order defendant to produce documents, &c. on oath.

19. It shall be lawful for any defendant in any suit, whether commenced by bill or by claim, but, in suits commenced by bill which the defendant is required to answer, not until after he shall have put in a sufficient answer to the bill, and without filing any cross bill of discovery, to file in the record office of the said court interrogatories for the examination of the plaintiff, to which shall be prefixed a concise statement of the subjects on which a discovery is sought, and to deliver a copy of such interrogatories to the plaintiff or his solicitor; and such plaintiff shall be bound to answer such interrogatories, in like manner as if the same had been contained in a bill of discovery filed by the defendant against him on the day when such interrogatories shall have been filed, and as if the defendant to such bill of

In certain cases defendant, after answer, may file interrogatories for examination of plaintiff.

discovery had on the same day duly appeared; and the practice of the court with reference to excepting to answers for insufficiency, or for scandal, shall extend and be applicable to answers put in to such interrogatories: provided that in determining the materiality or relevancy of any such answer, or of any exception thereto, the court is to have regard, in suits commenced by bill, to the statements contained in the original bill, and in the answer which may have been put in thereto by the defendant exhibiting such interrogatories for the examination of the plaintiff, and in suits commenced by claim, to the statements therein, and in any affidavits which may have been filed either in support thereof or in opposition thereto: provided also, that a defendant, if he shall think fit so to do, may exhibit a cross bill of discovery against the plaintiff, instead of filing interrogatories for his examination.

Defendant may exhibit a cross bill instead of filing interrogatories.

Upon application of defendant after answer, plaintiff may be required to produce documents on oath.

20. It shall be lawful for the court, upon the application of any defendant in any suit, whether commenced by bill or by claim, but, as to suits commenced by bill where the defendant is required to answer the plaintiff's bill, not until after he has put in a full and sufficient answer to the bill, unless the court shall make any order to the contrary, to make an order for the production by the plaintiff in such suit, on oath, of such of the documents in his possession or power relating to the matters in question in the suit, as the court shall think right; and the court may deal with such documents, when produced, in such manner as shall appear just.

Practice of issuing commissions to take pleas, answers, &c. within the jurisdiction of the court abolished.

21. The practice of the said court, of issuing commissions to take pleas, answers, disclaimers, and examinations in causes and matters pending in the said court shall, with respect to pleas, answers, disclaimers and examinations taken within the jurisdiction of the court, be and the same is hereby abolished; and any such plea, answer, disclaimer or examination may be filed without any further or other formality than is required in the swearing and filing of an affidavit.

Pleas, declarations, &c. in Chancery, how to be sworn and taken in Scotland, Ireland, the Channel Islands, &c.

22. All pleas, answers, disclaimers, examinations, affidavits, declarations, affirmations, and attestations of honour in causes or matters depending in the High Court of Chancery, and also acknowledgments required for the purpose of enrolling any deed in the said court, shall and may be sworn and taken in Scotland or Ireland, or the Channel Islands, or in any colony, island, plantation, or place under the dominion of her majesty in foreign parts, before any judge, court, notary public, or person lawfully authorized to administer

oaths in such country, colony, island, plantation, or place respectively, or before any of her majesty's consuls or vice-consuls in any foreign parts out of her majesty's dominions; and the judges and other officers of the said Court of Chancery shall take judicial notice of the seal or signature, as the case may be, of any such court, judge, notary public, person, consul, or vice-consul attached, appended or subscribed to any such pleas, answers, disclaimers, examinations, affidavits, affirmations, attestations of honour, declarations, acknowledgments, or other documents to be used in the said court.

23. All persons swearing, declaring, affirming, or attesting before any person authorized by this act to administer oaths and take declarations, affirmations, or attestations of honour shall be liable to all such penalties, punishments, and consequences for any wilful and corrupt false swearing, declaring, affirming, or attesting contained therein, as if the matter sworn, declared, affirmed, or attested, had been sworn, declared, affirmed, or attested before any court or persons now by law authorized to administer oaths, and take declarations, affirmations, or attestations upon honour.

Penalty for falsely swearing, &c.

24. If any person shall forge the signature or the official seal of any such judge, notary public, or other person lawfully authorized to administer oaths under this act, or shall tender in evidence any plea, answer, disclaimer, examination, affidavit, or other judicial or official document, with a false or counterfeit signature or seal of any such judge, court, notary public, or other person authorized as aforesaid attached or appended thereto, knowing the same signature or seal to be false or counterfeit, every such person shall be guilty of felony, and shall be liable to the same punishment as any offender under an act passed in the eighth and ninth years of the reign of her present majesty, intituled "An Act to facilitate the Admission in Evidence of certain official and other Documents."

Penalty for forging signature or seal of judge, &c. empowered to administer oaths under this act.

25. Pleas, answers, disclaimers, or examinations, whether taken by commission out of the jurisdiction of the said court or otherwise, may be filed without the oath of a messenger, and any alterations made therein previously to the taking thereof shall be authenticated according to the practice now in use with respect to affidavits.

Answers, &c. to be filed without oath of messenger.

26. In suits in the said court commenced by bill, where notice of motion for a decree or decretal order shall not have been given, or, having been given, where a decree or decretal order shall not have been made thereon, issue shall be joined by filing a replication in the form or to the effect of the replication now in use in the said court; and where a defendant

Issue may be joined by filing replication as at present.

shall not have been required to answer and shall not have answered the plaintiff's bill, he shall be considered to have traversed the case made by the bill.

Defendant not having been required to answer, and not answering, may move for dismissal of bill for want of prosecution.

Practice of Court as to, and mode of examining witnesses, abolished.

Court may order particular witnesses to be examined upon interrogatories as now practised.

27. Where a defendant to a suit in the said court commenced by bill shall not have been required to answer the bill and shall not have answered the same, such defendant shall be at liberty to move to dismiss the bill for want of prosecution, at such times, and under such circumstances, and subject to such restrictions as shall be in that behalf prescribed by any general order of the Lord Chancellor.

28. The mode of examining witnesses in causes in the said court, and all the practice of the said court in relation thereto, so far as such practice shall be inconsistent with the mode hereinafter prescribed of examining such witnesses, and the practice in relation thereto, shall, from and after the time appointed for the commencement of this act, be abolished: provided always, that the court may, if it shall think fit, order any particular witness or witnesses within the jurisdiction of the said court, or any witness or witnesses out of the jurisdiction of the said court, to be examined upon interrogatories in the mode now practised in the said court, and that with respect to such witness or witnesses the practice of the said court in relation to the examination of witnesses shall continue in full force, save only so far as the same may be varied by any general order of the Lord Chancellor in that behalf, or by any order of the court with reference to any particular case.

Plaintiff, where suits by bill at issue, may give notice to defendant to adduce evidence orally or by affidavit.

29. When any suit commenced by bill shall be at issue, the plaintiff shall, within such time thereafter as shall be prescribed in that behalf by any general order of the Lord Chancellor, give notice to the defendant that he desires that the evidence to be adduced in the cause shall be taken orally or upon affidavit, as the case may be; and if the plaintiff shall desire the evidence to be adduced upon affidavit, and the defendant, or some or one of the defendants, if more than one, shall not, within such time as shall be prescribed in that behalf by any general order of the Lord Chancellor, give notice to the plaintiff or his solicitor that he or they desire the evidence to be oral, the plaintiff and defendants respectively shall be at liberty to verify their respective cases by affidavit.

Evidence may be taken orally if required, but the court may in certain cases make an order. &c.

30. When any of the parties to any suit commenced by bill desires that the evidence should be adduced orally, and gives notice thereof to the opposite party as herein-before provided, the same shall be taken orally, in the manner herein-after provided; provided, that, if the evidence be required to be oral merely by a party without a sufficient in-

terest in the matters in question, the court may, upon application in a summary way, make such order as shall be just.

31. All witnesses to be examined orally under the provisions of this act shall be so examined by or before one of the examiners of the court, or by or before an examiner to be specially appointed by the court, the examiner being furnished by the plaintiff with a copy of the bill, and of the answer, if any, in the cause; and such examination shall take place in the presence of the parties, their counsel, solicitors, or agents, and the witnesses so examined orally shall be subject to cross-examination and re-examination; and such examination, cross-examination, and re-examination shall be conducted as nearly as may be in the mode now in use in courts of common law with respect to a witness about to go abroad, and not expected to be present at the trial of a cause.

Witnesses to be examined by one of the examiners of the court in the presence of the parties.

32. The depositions taken upon any such oral examination as aforesaid shall be taken down in writing by the examiner, not ordinarily by question and answer, but in the form of a narrative, and when completed shall be read over to the witness, and signed by him in the presence of the parties, or such of them as may think fit to attend: Provided always, that in case the witness shall refuse to sign the said depositions, then the examiner shall sign the same, and such examiner may, upon all examinations, state any special matter to the court as he shall think fit: Provided also, that it shall be in the discretion of the examiner to put down any particular question or answer, if there should appear any special reason for doing so; and any question or questions which may be objected to shall be noticed or referred to by the examiner in or upon the depositions, and he shall state his opinion thereon to the counsel, solicitors, or parties, and shall refer to such statement on the face of the depositions, but he shall not have power to decide upon the materiality or relevancy of any question or questions; and the court shall have power to deal with the costs of immaterial or irrelevant depositions as may be just.

Depositions to be taken down in writing and read over to the witness, who shall sign the same in presence of the parties, but if he refuse to sign, examiner may, and state any special matter he may think fit.

33. If any person produced before any such examiner as a witness shall refuse to be sworn, or to answer any lawful question put to him by the examiner, or by either of the parties, or by his or their counsel, solicitor, or agent, the same course shall be adopted with respect to such witness as is now pursued in the case of a witness produced for examination before an examiner of the said court, upon written interrogatories, and refusing to be sworn, or to answer some

If parties refuse to be sworn or to answer any lawful questions, the same course to be pursued as is now adopted.



Proviso as to witness demurring to questions.

lawful questions : Provided always, that if any witness shall demur or object to any question or questions which may be put to him, the question or questions so put, and the demurrer or objection of the witness thereto, shall be taken down by the examiner, and transmitted by him to the record office of the said court, to be there filed; and the validity of such demurrer or objection shall be decided by the court; and the costs of and occasioned by such demurrer or objection shall be in the discretion of the court.

Original depositions to be transmitted to the record office, and filed.

34. When the examination of witnesses before any examiner shall have been concluded, the original depositions, authenticated by the signature of such examiner, shall be transmitted by him to the record office of the said court, to be there filed, and any party to the suit may have a copy thereof or of any part or portion thereof upon payment for the same in such manner as shall be provided by any general order of the Lord Chancellor in that behalf.

Commission for examination of witnesses dispensed with, and examiner empowered to administer oaths.

35. It shall not be necessary to sue out any commission for the examination of any witnesses within the jurisdiction of the said court; and any examiner appointed by any order of the court shall have the like power of administering oaths as commissioners now have under commissions issued by the court for the examination of witnesses.

Affidavits as to particular facts, &c. may be used.

36. Notwithstanding that the plaintiff or the defendant in any suit in the said court may have elected that the evidence in the cause should be taken orally, affidavits by particular witnesses, or affidavits as to particular facts or circumstances, may, by consent, or by leave of the court obtained upon notice, be used on the hearing of any cause, and such consent, with the approbation of the court, may be given by or on the part of married women or infants or other persons under disability.

Affidavits to be divided into paragraphs numbered.

37. Every affidavit to be used in the said court shall be divided into paragraphs, and every paragraph shall be numbered consecutively and, as nearly as may be, shall be confined to a distinct portion of the subject.

Evidence oral or by affidavit, on both sides, to be closed within time prescribed by general order.

38. The evidence on both sides in any suit in the said court, whether taken orally or upon affidavit, shall be closed within such time or respective times after issue joined as shall in that behalf be prescribed by any general order of the Lord Chancellor, but with power to the court to enlarge the same as it may see fit; and after the time fixed for closing the evidence no further evidence, whether oral or by affidavit, shall be receivable, without special leave of the court previously obtained for that purpose: provided always, that any witness who has made an affidavit filed by any

Witnesses by affidavit to

party to a cause shall be subject to oral cross-examination, within such time after the time fixed for closing the evidence as shall be prescribed in that behalf by any order of the Lord Chancellor, by or before an examiner, in the same manner as if the evidence given by him in his affidavit had been given by him orally before the examiner, and after such cross-examination may be re-examined orally by or on the part of the party by whom such affidavit was filed; and such witness shall be bound to attend before such examiner to be so cross-examined and re-examined, upon receiving due and proper notice, and payment of his reasonable expenses, in like manner as if he had been duly served with a writ of subpoena ad testificandum before such examiner; and the expenses attending such cross-examination and re-examination shall be paid by the parties respectively, in like manner as if the witness so to be cross-examined were the witness of the party cross-examining, and shall be deemed costs in the cause of such parties respectively, unless the court shall think fit otherwise to direct.

be subject to oral cross-examination, and afterwards to re-examination.

Witnesses bound to attend.

As to expenses attending cross-examinations, &c.

39. Upon the hearing of any cause depending in the said court, whether commenced by bill or by claim, the court, if it shall see fit so to do, may require the production and oral examination before itself of any witness or party in the cause, and may direct the costs of and attending the production and examination of such witness or party, to be paid by such of the parties to the suit or in such manner as it may think fit.

Court may require the production and oral examination before itself of any witness, &c. and determine payment of the costs.

40. Any party in any cause or matter depending in the said court may, by a writ of subpoena ad testificandum or duces tecum, require the attendance of any witness before an examiner of the said court, or before an examiner specially appointed for the purpose, and examine such witness orally, for the purpose of using his evidence upon any claim, motion, petition or other proceeding before the court, in like manner as such witness would be bound to attend and be examined with a view to the hearing of a cause; and any party, having made an affidavit to be used or which shall be used on any claim, motion, petition or other proceeding before the court, shall be bound on being served with such writ to attend before an examiner, for the purpose of being cross-examined: provided always, that the court shall always have a discretionary power of acting upon such evidence as may be before it at the time, and of making such interim orders, or otherwise, as may appear necessary to meet the justice of the case.

Any party in a cause may by subpoena require attendance of any witness before an examiner.

Evidence subsequent to hearing to be taken the same as prior to hearing.

Defendant not to take objection for want of parties in any case to which rules herein set forth shall extend.

41. In cases where it shall be necessary for any party to any cause depending in the said court to go into evidence subsequently to the hearing of such cause, such evidence shall be taken as nearly as may be in the manner hereinbefore provided with reference to the taking of evidence with a view to such hearing.

42. It shall not be competent to any defendant in any suit in the said court to take any objection for want of parties to such suit, in any case to which the rules next hereinafter set forth extend; and such rules shall be deemed and taken as part of the law and practice of the said court, and any law or practice of the said court inconsistent therewith shall be, and is hereby, abrogated and annulled.

Rule 1. Any residuary legatee or next of kin may, without serving the remaining residuary legatees or next of kin, have a decree for the administration of the personal estate of a deceased person.

Rule 2. Any legatee interested in a legacy charged upon real estate, and any person interested in the proceeds of real estate directed to be sold, may, without serving any other legatee or person interested in the proceeds of the estate, have a decree for the administration of the estate of a deceased person.

Rule 3. Any residuary devisee or heir may, without serving any co-residuary devisee or co-heir, have the like decree.

Rule 4. Any one of several cestuisque trust under any deed or instrument may, without serving any other of such cestuisque trust, have a decree for the execution of the trusts of the deed or instrument.

Rule 5. In all cases of suits for the protection of property pending litigation, and in all cases in the nature of waste, one person may sue on behalf of himself and of all persons having the same interest.

Rule 6. Any executor, administrator or trustee may obtain a decree against any one legatee, next of kin, or cestuique trust for the administration of the estate or the execution of the trusts.

Rule 7. In all the above cases the court, if it shall see fit, may require any other person or persons to be made a party or parties to the suit, and may, if it shall see fit, give the conduct of the suit to such person as it may deem proper, and may make such order in any particular case as it may deem just for placing the defendant on the record on the same

footing in regard to costs as other parties having a common interest with him in the matters in question.

Rule 8. In all the above cases the persons who, according to the present practice of the court, would be necessary parties to the suit, shall be served with notice of the decree, and after such notice they shall be bound by the proceedings in the same manner as if they had been originally made parties to the suit, and they may by an order of course have liberty to attend the proceedings under the decree; and any party so served may, within such time as shall in that behalf be prescribed by the general order of the Lord Chancellor, apply to the court to add to the decree.

Rule 9. In all suits concerning real or personal estate which is vested in trustees under a will, settlement or otherwise, such trustees shall represent the persons beneficially interested under the trust, in the same manner and to the same extent as the executors or administrators in suits concerning personal estate represent the persons beneficially interested in such personal estate; and in such cases it shall not be necessary to make the persons beneficially interested under the trusts parties to the suit; but the court may, upon consideration of the matter, on the hearing, if it shall so think fit, order such persons, or any of them, to be made parties.

43. The practice of the said court of setting down a cause merely on an objection for want of parties to the suit shall be abolished.

Practice of setting down a cause on objection for want of parties abolished.

44. If, in any suit or other proceeding before the court, it shall appear to the court that any deceased person who was interested in the matters in question has no legal personal representative, it shall be lawful for the court either to proceed in the absence of any person representing the estate of such deceased person, or to appoint some person to represent such estate for all the purposes of the suit or other proceeding, on such notice to such person or persons, if any, as the court shall think fit, either specially or generally by public advertisements; and the order so made by the said court, and any orders consequent thereon, shall bind the estate of such deceased person in the same manner in every respect as if there had been a duly constituted legal personal representative of such deceased person, and such legal

Court may proceed in any suit, &c, without representative of deceased person, or may appoint one.

personal representative had been a party to the suit or proceeding, and had duly appeared and submitted his rights and interests to the protection of the court.

Creditor, &c. may summon executor, &c. to show cause why an order for administration of personal estate should not be granted.

Power to judge to order administration of such estate.

45. It shall be lawful for any person claiming to be a creditor, or a specific pecuniary or residuary legatee, or the next of kin, or some or one of the next of kin, of a deceased person, to apply for and obtain as of course, without bill or claim filed, or any other preliminary proceedings, a summons from the Master of the Rolls or any of the vice-chancellors requiring the executor or administrator, as the case may be, of such deceased person, to attend before him at chambers, for the purpose of showing cause why an order for the administration of the personal estate of the deceased should not be granted; and upon proof by affidavit of the due service of such summons, or on the appearance in person or by his solicitor or counsel of such executor or administrator, and upon proof by affidavit of such other matters, if any, as such judge shall require, it shall be lawful for such judge, if in his discretion he shall think fit so to do, to make the usual order for the administration of the estate of the deceased, with such variations, if any, as the circumstances of the case may require; and the order so made shall have the force and effect of a decree to the like effect made on the hearing of a cause or claim between the same parties: provided that such judge shall have full discretionary power to grant or refuse such order, or to give any special directions touching the carriage or execution of such order, and in the case of applications for any such order by two or more different persons or classes of persons, to grant the same to such one or more of the claimants or of the classes of claimants as he may think fit; and if the judge shall think proper, the carriage of the order may subsequently be given to such party interested, and upon such terms as the judge may direct.

Copy of summons to be filed in record office of court.

46. A duplicate or copy of such summons shall, previously to the service thereof, be filed in the record office of the said court; and no service thereof upon any executor or administrator shall be of any validity unless the copy so served shall be stamped with a stamp of such office indicating the filing thereof; and the filing of such summons shall have the same effect with respect to *lis pendens* as the filing of a bill or claim.

Creditor, &c. may obtain an order for administration of real estate.

47. It shall be lawful for any person claiming to be a creditor of any deceased person, or interested under his will, to apply for and obtain in a summary way, in the manner herein-before provided with respect to the personal estate of

a deceased person, an order for the administration of the real estate of a deceased person, where the whole of such real estate is by devise vested in trustees who are by the will empowered to sell such real estate, and authorized to give receipts for the rents and profits thereof, and for the produce of the sale of such real estate; and all the provisions herein-before contained with respect to the application for such order in relation to the personal estate of a deceased person, and consequent thereon, shall extend and be applicable to an application for such order as last herein-before mentioned with respect to real estate.

48. It shall be lawful for the court in any suit for the foreclosure of the equity of redemption in any mortgaged property, upon the request of the mortgagee, or of any subsequent incumbrancer, or of the mortgagor, or any person claiming under them respectively, to direct a sale of such property, instead of a foreclosure of such equity of redemption, on such terms as the court may think fit to direct, and if the court shall so think fit, without previously determining the priorities of incumbrances, or giving the usual or any time to redeem: provided that if such request shall be made by any such subsequent incumbrancer, or by the mortgagor, or by any person claiming under them respectively, the court shall not direct any such sale, without the consent of the mortgagee or the persons claiming under him, unless the party making such request shall deposit in court a reasonable sum of money, to be fixed by the court, for the purpose of securing the performance of such terms as the court may think fit to impose on the party making such request.

Court may direct sale of mortgaged property instead of a foreclosure on such terms as it may think fit.

49. No suit in the said court shall be dismissed by reason only of the misjoinder of persons as plaintiffs therein, but wherever it shall appear to the court that, notwithstanding the conflict of interest in the co-plaintiffs, or the want of interest in some of the plaintiffs, or the existence of some ground of defence affecting some or one of the plaintiffs, the plaintiffs, or some or one of them, are or is entitled to relief, the Court shall have power to grant such relief, and to modify its decree according to the special circumstances of the case, and for that purpose to direct such amendments, if any, as may be necessary, and at the hearing, before such amendments are made, to treat any one or more of the plaintiffs as if he or they was or were a defendant or defendants in the suit, and the remaining or other plaintiff or plaintiffs was or were the only plaintiff or plaintiffs on the record; and where there is a misjoinder of plaintiffs, and

Suit not to be dismissed for misjoinder of plaintiffs, but court may modify its decree, according to special circumstances.

the plaintiff having an interest shall have died leaving a plaintiff on the record without an interest, the court may, at the hearing of the cause, order the cause to stand revived, as may appear just, and proceed to a decision of the cause, if it shall see fit, and to give such directions as to costs or otherwise as may appear just and expedient.

No suit to be objected to because only declaratory order sought. Court may decide between some of the parties without making others interested parties to the suit.

50. No suit in the said court shall be open to objection on the ground that a merely declaratory decree or order is sought thereby, and it shall be lawful for the court to make binding declarations of right without granting consequential relief.

Proviso.

51. It shall be lawful for the court to adjudicate on questions arising between parties notwithstanding that they may be some only of the parties interested in the property respecting which the question may have arisen, or that the property in question is comprised with other property in the same settlement, will or other instrument, without making the other parties interested in the property respecting which the question may have arisen, or interested under the same settlement, will or other instrument, parties to the suit, and without requiring the whole trusts and purposes of the settlement, will or other instrument to be executed under the direction of the court, and without taking the accounts of the trustees or other accounting parties, or ascertaining the particulars or amount of the property touching which the question or questions may have arisen: provided always, that if the court shall be of opinion that the application is fraudulent or collusive, or for some other reason ought not to be entertained, it shall have power to refuse to make the order prayed.

In case of abatement, &c. of suit an order may be made, which shall have same effect as a bill of revivor.

52. Upon any suit in the said court becoming abated by death, marriage or otherwise, or defective by reason of some change or transmission of interest or liability, it shall not be necessary to exhibit any bill of revivor or supplemental bill in order to obtain the usual order to revive such suit, or the usual or necessary decree or order to carry on the proceedings; but an order to the effect of the usual order to revive or of the usual supplemental decree may be obtained as of course upon an allegation of the abatement of such suit, or of the same having become defective, and of the change or transmission of interest or liability; and an order so obtained, when served upon the party or parties who according to the present practice of the said court would be defendant or defendants to the bill of revivor or supplemental bill, shall from the time of such service be binding on such party or parties in the same manner in every respect as if such order had been regularly obtained accord-

ing to the existing practice of the said court; and such party or parties shall thenceforth become a party or parties to the suit, and shall be bound to enter an appearance thereto in the office of the clerks of records and writs, within such time and in like manner as if he or they had been duly served with process to appear to a bill of revivor or supplemental bill filed against him; provided that it shall be open to the party or parties so served, within such time after service as shall be in that behalf prescribed by any general order of the Lord Chancellor, to apply to the court by motion or petition to discharge such order on any ground which would have been open to him on a bill of revivor or supplemental bill, stating the previous proceedings in the suit and the alleged change or transmission of interest or liability, and praying the usual relief consequent thereon: Provided also, that if any party so served shall be under any disability other than coverture, such order shall be of no force or effect as against such party until a guardian or guardians ad litem shall have been duly appointed for such party, and such time shall have elapsed thereafter as shall be prescribed by any general order of the Lord Chancellor in that behalf.

53. It shall not be necessary to exhibit any supplemental bill in the said court for the purpose only of stating or putting in issue facts or circumstances which may have occurred after the institution of any suit; but such facts or circumstances may be introduced by way of amendment into the original bill of complaint in the suit if the cause is otherwise in such a state as to allow of an amendment being made in the bill, and if not, the plaintiff shall be at liberty to state such facts or circumstances on the record, in such manner and subject to such rules and regulations with respect to the proof thereof, and the affording the defendant leave and opportunity of answering and meeting the same, as shall in that behalf be prescribed by any general order of the Lord Chancellor.

New facts, &c. after commencement of suit, to be introduced as amendments to bill, &c.

54. It shall be lawful for the court, in any case where any account is required to be taken, to give such special directions, if any, as it may think fit with respect to the mode in which the account should be taken or vouched, and such special directions may be given, either by the decree or order directing such account, or by any subsequent order or orders, upon its appearing to the court that the circumstances of the case are such as to require such special directions; and particularly it shall be lawful for the court, in cases where it shall think fit so to do, to direct that in taking

Where account required to be taken, court may give special directions as to the mode of taking same.



the account the books of account in which the accounts required to be taken have been kept, or any of them, shall be taken as *prima facie* evidence of the truth of the matters therein contained, with liberty to the parties interested to take such objections thereto as they may be advised.

Court may order real estate to be sold, if required.

55. If, after a suit shall have been instituted in the said court in relation to any real estate, it shall appear to the court that it will be necessary or expedient that the said real estate or any part thereof should be sold for the purposes of such suit, it shall be lawful for the said court to direct the same to be sold at any time after the institution thereof, and such sale shall be as valid to all intents and purposes as if directed to be made by a decree or decretal order on the hearing of such cause; and any party to the suit in possession of such estate, or in receipt of the rents and profits thereof, shall be compelled to deliver up such possession or receipt to the purchaser or such other person as the court shall direct.

Before sale of estate abstract of title to be laid before some conveying counsel.

56. Before any estate or interest shall be put up for sale under a decree or order of the Court of Chancery, an abstract of the title thereto shall, with the approbation of the court, be laid before some conveying counsel to be approved by the court, for the opinion of such counsel thereon, to the intent that the said court may be the better enabled to give such directions as may be necessary respecting the conditions of sale of such estate or interest, and other matters connected with the sale thereof; and when an estate or interest shall be so put up for sale, a time for the delivery of the abstract of title thereto to the purchaser or his solicitor shall be specified in the said conditions of sale.

Time for delivery of abstract to be specified in conditions of sale.

Where real or personal property is the subject of proceedings, court may allow to parties part or the whole of the annual income.

57. Where any real or personal property shall form the subject of any proceedings in the Court of Chancery, and the court shall be satisfied that the same will be more than sufficient to answer all the claims thereon which ought to be provided for in such suit, it shall be lawful for the said court at any time after the commencement of such proceedings to allow to the parties interested therein, or any one or more of them, the whole or part of the annual income of such real property, or a part of such personal property, or a part or the whole of the income thereof, up to such time as the said court shall direct, and for that purpose to make such orders as may appear to the said court necessary or expedient.

Practice as to injunctions to stay proceedings at law to be

58. The practice of the Court of Chancery with respect to injunctions for the stay of proceedings at law shall, so far as the nature of the case will admit, be assimilated to the practice of such court with respect to special injunctions

generally, and such injunctions may be granted upon interlocutory applications supported by affidavit, in like manner as other special injunctions are granted by the said court.

assimilated-  
to practice as  
to special in-  
junctions.

59. Upon application by motion or petition to the court in any suit depending therein for an injunction or a receiver, or to dissolve an injunction, or discharge an order appointing a receiver, the answer of the defendant shall, for the purpose of evidence on such motion or petition, be regarded merely as an affidavit of the defendant, and affidavits may be received and read in opposition thereto.

Answer of  
defendant,  
on motion for  
injunction  
or receiver,  
&c., to be re-  
garded as an  
affidavit.

60. In case any of the directions herein contained with respect to the practice and course of proceedings in the said Court of Chancery shall by mistake of parties fail to be followed in any suit or proceeding in the said court, it shall be lawful for the said court, if it shall think fit, upon payment of such costs as such court shall direct, to make such order giving effect to and rectifying such proceedings as may be justified by the merits of the case.

In case di-  
rections as to  
practice, &c.  
not followed,  
court may  
make order  
and award  
costs.

61. It shall not be lawful for the said Court of Chancery, in any cause or matter, to direct a case to be stated for the opinion of any court of common law, but the said Court of Chancery shall have full power to determine any questions of law, which in the judgment of the said Court of Chancery shall be necessary to be decided previously to the decision of the equitable question at issue between the parties.

Court of  
Chancery not  
to direct  
cases to be  
stated for  
opinions of  
Court of  
Common  
Law, but to  
decide the  
same.

62. In cases where, according to the present practice of the Court of Chancery, such court declines to grant equitable relief until the legal title or right of the party or parties seeking such relief shall have been established in a proceeding at law, the said court may itself determine such title or right without requiring the parties to proceed at law to establish the same.

Court may  
determine  
legal title of  
party seeking  
relief with-  
out requiring  
parties to  
proceed to  
law.

63. The Lord Chancellor, with the advice and assistance of the Master of the Rolls, the lord justices of the court of appeal in chancery, and the Vice-Chancellors, or any three of them, may and they are hereby required from time to time to make general rules and orders for carrying the purposes of this act into effect, and for regulating the times and form and mode of procedure, and generally the practice of the said court, in respect of the matters to which this act relates, and for regulating the fees and allowances to all officers of the said court and solicitors thereof in respect to such matters, and, so far as may be found expedient, for altering the course of proceeding herein-before prescribed in respect to the matters to which this act relates, or any of them; and such rules and orders may from time to time be

Lord Chan-  
cellor and  
judges to  
make general  
rules and  
orders for  
carrying pur-  
poses of this  
act into  
effect.

rescinded or altered by the like authority; and all such rules and orders shall take effect as general orders of the said court.

Such general rules and orders to be laid before parliament.

64. All general rules and orders of the Lord Chancellor, with such advice and assistance as aforesaid, shall immediately after the making and issuing thereof be laid before both houses of parliament, if parliament be then sitting, or if parliament be not then sitting, within five days after the next meeting thereof: Provided always, that if either of the houses of parliament shall, by any resolution passed within thirty-six days after such rules or orders have been laid before such houses of parliament, resolve that the whole or any part of such rules or orders ought not to continue in force, in such case the whole, or such part thereof as shall be so included in such resolution, shall, from and after such resolution, cease to be binding.

Power to Lord Chancellor to increase salaries of examiners.

65. And whereas the present examiners of the court have been heretofore appointed for the purpose only of taking the depositions of witnesses in private, and upon written interrogatories prepared by counsel: And whereas the public examination of witnesses orally, under the provisions of this act, will materially alter the nature of the duties and increase the responsibility of the said examiners: Be it therefore enacted, That it shall be lawful for the Lord Chancellor, and he is hereby empowered, to order and direct a sum to be paid to each of the said examiners, out of the fund intituled "The Suitors' Fee Fund," from and after the first of November, one thousand eight hundred and fifty-two, such a sum as shall together with the sums now payable make up the annual sum of one thousand five hundred pounds: Provided always, that if either of the present examiners should feel himself unable or should decline to continue his services in the same office upon the conditions provided under this act, it shall be lawful for the Lord Chancellor to order to be paid to such examiner retiring an annuity of an amount not exceeding three-fourths of the salary which he has hitherto received.

If examiner decline to continue, Lord Chancellor may order a certain annuity to be paid to him.

Construction of terms.

66. In the construction of this act the words "bill of complaint" shall mean also and include information; the word "affidavit" shall mean also and include affirmation; the expression "Lord Chancellor" shall mean and include the Lord Chancellor, Lord Keeper, and Lords Commissioners of the Great Seal of the United Kingdom for the time being; and the expression "general order of the Lord Chancellor" shall mean general order of the Lord Chancellor with such advice and assistance as aforesaid.

67. This act shall commence and take effect from and after the first day of November, one thousand eight hundred and fifty-two: provided that it shall be lawful for the Lord Chancellor, with such advice and assistance as aforesaid, to make and issue any such general rules or orders as aforesaid at any time after the passing of this act, so as the same be not made to take effect before the time appointed for the commencement of this act.

Commence-  
ment of act.

SCHEDULE.

*Form of Indorsement on Bill of Complaint.*

VICTORIA R.

To the within-named defendant *C.D.*, greeting.

We command you ["and every of you," *where there is more than one defendant*], that within eight days after service hereof on you, exclusive of the day of such service, you cause an appearance to be entered for you in our High Court of Chancery to the within bill of complaint of the within-named *A.B.*, and that you observe what our said court shall direct. Witness ourself at Westminster, the day of            in the            year of our reign.

NOTE.—If you fail to comply with the above directions you will be liable to be arrested and imprisoned.

Appearances are to be entered at the Record and Writ Clerks Office, Chancery-lane, London.

*Form of Indorsement on Claim.*

VICTORIA R.

To the within-named defendant *C.D.*, greeting.

We command you ["and every of you," *where there is more than one defendant*], that within eight days after service hereof on you, exclusive of the day of such service, you cause an appearance to be entered for you in our High Court of Chancery to the within claim of the within-named *A.B.*; and further, that on the fourteenth day after the service hereof, or on the seal or motion day then next following, you do personally or by counsel appear in the court of our Lord Chancellor before the Vice-Chancellor [*naming him*] [*or, in the court of our Master of the Rolls*], at ten of

the clock in the forenoon, and then and there show cause if you can why the said A.B. should not have such relief against you as is within claimed, or why such order as shall be just with reference to the claim should not be made. Witness ourself at Westminster the            day of            in the            year of our reign.

Note.—Appearances are to be entered at the Record and Writ Clerks Office, Chancery-lane, London; and if you neglect to enter your appearance, and either personally or by your counsel to appear in the High Court of Chancery at the place and on the day and hour above mentioned, you will be subject to such order as the court may think fit to make against you in your absence for payment or satisfaction of the said claim, or as the nature and circumstances of the case may require.

### 15 & 16 VICT. c. 80.

*An Act to abolish the Office of Master in Ordinary of the High Court of Chancery, and to make Provision for the more speedy and efficient Despatch of Business in the said Court.* [30th June, 1852.]

WHEREAS proceedings before the masters in ordinary of the High Court of Chancery are attended with great delay and expense, and it is expedient that the business now disposed of in the office of such masters should be transacted by and under the more immediate direction and control of the judges of the said court: be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons in this present Parliament assembled, and by the authority of the same, as follows:

Office of  
Masters in  
Ordinary in  
Chancery  
abolished.

1. The office of master in ordinary of the High Court of Chancery shall be and the same is hereby abolished, but reserving and subject to the execution by the present masters in ordinary of the said court, as such, of the duties herein-after provided for; and until they are released under this act they shall, for the performance of such duties, continue to have all the powers conferred upon them by any act of Parliament, or otherwise vested in them.

2. No vacancy which has already occurred or may hereafter occur in the office of Master in ordinary of the said court shall be filled up, nor shall any future Accountant General be made or become one of the Masters in ordinary.

Vacancies in office of Masters not to be filled up.

3. On the first day of Michaelmas term, one thousand eight hundred and fifty-two, James William Farrer, Esquire, and William Brougham, Esquire, two of the Masters in ordinary of the said court, shall be released from their duties as such Masters; and as often thereafter as, in the judgment of the Lord Chancellor, from the state of business in the said court, any other Master or Masters can be spared, it shall be lawful for the Lord Chancellor to release any such Master or Masters at such time or times as to him shall seem meet: provided always, that nothing in this act contained shall extend to release, or to authorize the Lord Chancellor to release, any of the Masters from attendance upon the House of Lords without the order of the House: provided also, that if, from the nature of any particular matter or matters depending before either of the said Masters herein-before respectively named, it shall in the opinion of the Lord Chancellor be desirable that such matter or matters should be worked out by or before the same Master before whom the same shall be depending, it shall be lawful for the Lord Chancellor to direct such Master to continue the prosecution of such matter or matters, and such Master shall prosecute the same accordingly, in the same manner and with the same powers in every respect as if he had not been released from his duties under this act.

Two of the Masters in ordinary released from their duties on first day of Michaelmas term, 1852, &c.

Proviso as to certain matters depending before the said Masters.

4. Every Master to be released by the Lord Chancellor shall have the option to retire tendered to him according to his seniority in office; and if any such Master shall, for one calendar month after such option tendered to him, neglect or decline to avail himself thereof, then the Lord Chancellor may tender the like option to the next in succession in seniority in office, and so toties quoties; but when the Lord Chancellor shall be of opinion that the services of none of the Masters are any longer necessary for the due execution of the business of the said court, it shall be lawful for him to release every remaining Master.

Option to Masters to retire according to seniority, &c.

Power to Lord Chancellor to release remaining Masters.

5. Each one of the Masters to be so released on the first day of Michaelmas term, one thousand eight hundred and fifty-two, shall nevertheless continue entitled to receive during his life, by way of retiring pension, the full amount of his salary as such Master, including the amount of the compensation allowance payable to him as such Master; and every Master who may be so released subsequently to

Masters' salaries and compensation allowance continued by way of retiring pensions, &c.

the same first day of Michaelmas term, one thousand eight hundred and fifty-two, shall also continue entitled to receive by way of retiring pension the full amount of his salary as such Master.

Retiring pensions, &c. to be paid in the same manner as present salaries.

Power to Masters to summon parties, &c., and to settle and wind up proceedings before them.

Power to court, upon master's report or certificate, to make order for prosecution or final disposal of any suit, &c., and for payment of costs, &c.

On neglect of parties to bring Master's report before the court, solicitor to suitors' fee fund to do so, and his costs provided for.

6. The salaries or retiring pensions and compensation allowances payable to the Masters so to be released shall continue or be payable out of the same funds, on the days and in the same manner in all respects, as their present salaries and compensation allowances respectively.

7. In order as expeditiously as may be to wind up all the causes, matters and things which may from time to time be depending before or have been referred to the Masters in ordinary of the said court, it shall be lawful for every Master, at any time after the passing of this act, to summon as he shall deem fit all or any of the parties to any cause, matter or thing so depending, or their solicitors, and thereupon to proceed with such cause, matter or thing, and give such directions and make such order as he may think necessary for the purpose of settling and winding-up the same; but any such order shall be subject to be discharged or varied by the court upon application made for that purpose; and the Master shall be at liberty to proceed for the purposes aforesaid in the absence of any of the parties or solicitors neglecting or refusing to attend the summons.

8. In case the Master shall be unable, by reason of the conduct of parties, or otherwise, to finally dispose of any cause, matter or thing, he shall be at liberty to dispose of any part thereof within his power, and to report or certify on the whole of the case; and upon such report or certificate the court shall make such order as it shall think proper on all or any of the parties, for the further prosecution of the suit or matter, or for the final disposal thereof, and for the payment of the costs thereof, including any of the costs which may have been incurred by reason of the conduct of the parties.

9. In the event of the parties in any cause, matter or thing, or their solicitors, refusing or neglecting, within a time to be fixed by the Master, to bring the Master's report or certificate before the court, the same may, by direction of the Master, be brought before the court by the solicitor for the time being to the suitors' fund; and the court is hereby empowered to order payment of the costs and expenses of the solicitor to the suitors' fund out of such of the funds in the cause, matter or thing, or by such parties, as to the court shall seem just; and in case payment thereof cannot be obtained by any of the means aforesaid, the same,

by the direction of the court, may be paid out of the suitors' fund.

10. From and after the first day of Michaelmas term, one thousand eight hundred and fifty-two, no reference shall be made to any of the Masters in ordinary of the said court, except in cases in which, from some previous reference made in the cause or matter, or in some other cause or matter connected therewith, the court may think it expedient to make such reference, and except in matters arising under the Joint Stock Companies Winding-up Acts 1848 and 1849: provided always, that until all the Masters in ordinary of the said court shall have been removed by resignation, death or otherwise, or have been released from their duties under this act, such of the Masters in ordinary of the said court as shall for the time being remain in office, and shall not be released from their duties under this act, shall prosecute all the business which on the first day of Michaelmas term, one thousand eight hundred and fifty-two, shall be depending before the Masters, and also all the references which before the said first day of Michaelmas term, one thousand eight hundred and fifty-two, shall have been made under decrees or orders of the court, or which on or after the same first day of Michaelmas term shall be made in relation to such excepted matters as aforesaid; and the same, if necessary, shall be distributed amongst such remaining Masters in such manner as the Lord Chancellor shall direct; and the powers and authorities now vested in them are hereby reserved to them for the purpose of executing and performing all the duties, matters and things which may be still referred to them, or which they may be lawfully called upon to perform.

No fresh references to Masters, except in cases already before them, and in matters under Winding-up Acts, 1848, and 1849. Until all the Masters are released from their duties, those remaining shall prosecute all the business depending.

11. From and after the first day of Michaelmas term, one thousand eight hundred and fifty-two, it shall be lawful for the Master of the Rolls and the Vice-Chancellors for the time being and they are hereby required to sit at chambers for the despatch of such part of the business of the said court as can, without detriment to the public advantage arising from the discussion of questions in open court, be heard in chambers, according to the directions hereinafter in that behalf specified or referred to; and the times at and during which they respectively shall so sit shall be from time to time fixed by them respectively.

Power now vested in Masters reserved to them for such purposes. Power to Master of the Rolls and Vice-Chancellors to sit at chambers for the despatch of business, &c.

12. The chamber business of the Master of the Rolls and of every Vice-Chancellor shall be carried on in conjunction with his court business; but as no rooms are attached to the courts of the Vice-Chancellors in which such chamber

Power to Lord Chancellor to provide chambers for



the Masters of the Rolls and Vice-Chancellors.

Judges to have same power and jurisdiction as in open court.

Orders made in chambers to be ordinarily drawn up by judges' clerks, but judges may direct them to be drawn up by registrars of the court, and may require their attendance at chambers for the purpose.

Orders made at chambers to have same force as orders of court, &c.

Power to judges to appoint two chief clerks to each court to assist in the business of the court.

Chief clerk to judges to have been chief clerks to Masters in ordinary, or solicitors or attornies of ten years practice.

Certain chief clerks to be chief clerks

business can be transacted, it shall be lawful for the Lord Chancellor to cause chambers to be provided for every of them respectively for that purpose until courts with proper rooms attached can be provided for them.

13. The Master of the Rolls and every of the Vice-Chancellors respectively when sitting in chambers shall have the same power and jurisdiction in respect of the business to be brought before them, as if they were respectively sitting in open court.

14. The orders made by the Master of the Rolls and Vice-Chancellors respectively when sitting in chambers shall ordinarily be drawn up there by their respective clerks, to be appointed as hereinafter-mentioned, but with power to each of such judges to direct any of such orders to be drawn up by the registrar of the said court in like manner as orders made by a judge of the said court in open court are drawn up, for which purpose the registrars of the said court shall, when required, attend the Master of the Rolls and the Vice-Chancellors respectively when sitting at chambers in such order and manner as shall be found most convenient for furthering the business of the said court, and as the Lord Chancellor, with the concurrence of the Master of the Rolls and Vice-Chancellors, or any two of them, shall from time to time by any general order direct.

15. All orders of the Master of the Rolls or of any Vice-Chancellor, made by him at chambers, shall have the force and effect of orders of the Court of Chancery, and such orders may be signed and enrolled in like manner.

16. It shall be lawful for the Master of the Rolls, and every of the Vice-Chancellors for the time being, respectively, with the approbation of the Lord Chancellor, to appoint two chief clerks each to be respectively attached to each such judge and his successors in office, for the purpose of assisting in the general business of each court, and the causes and matters belonging thereto, and on any vacancy in such office of chief clerk to supply such vacancy.

17. No person shall be appointed chief clerk to the Master of the Rolls or any Vice-Chancellor unless he shall have been chief clerk to one of the Masters in ordinary of the said court, or have been admitted on the roll of solicitors or attornies in one of the courts at Westminster Hall, and practised as such solicitor or attorney for the period of ten years at least immediately preceding his appointment: Provided always, that George Whiting and Henry Leman, the present chief clerks of the said Masters hereby released as aforesaid, and Charles Pugh, chief clerk in the office of the Master

now vacant, shall on the said first day of Michaelmas term, one thousand eight hundred and fifty-two, become and they are hereby appointed chief clerks of three of the said equity judges, and their respective successors in office.

of three of the equity judges.

18. It shall be lawful for the judge of each court to appoint a junior clerk to each chief clerk of his court, and on any vacancy in such office to supply such vacancy.

Power to judges to appoint junior clerks.

19. If any person who shall accept any office under this act, shall engage in any other employment whatever whilst he holds such office, or shall receive any sum of money or benefit other than his salary and what may be allowed or directed to be taken by him under any act of parliament or order of the said court or of the Lord Chancellor, for any act done or pretended to be done, or any attendance given or pretended to be given, either with or without the consent or direction or pretended consent or direction of the judge, in relation to or arising out of any proceeding in his office, or in any office of or connected with the Court of Chancery, or if such person, being or having been a solicitor or attorney, shall directly or indirectly receive or secure to himself any continuing benefit from any business or firm in which he may have been engaged previously to his appointment to such office, the person so offending may be removed from his office by order of the Lord Chancellor, and shall be rendered incapable of afterwards holding any office, situation, or employment in the said court.

Power to Lord Chancellor to remove any officer appointed under this act engaging in other employment or accepting any fee or emolument whatever other than his salary.

20. Every solicitor or attorney who shall be appointed to and shall accept any office under this act shall cease to be an attorney or solicitor, and shall forthwith procure himself to be struck off the roll of solicitors of the High Court of Chancery, and off the roll of any of her majesty's courts of record at Westminster on which his name may be.

Solicitors, &c. appointed to any office under this act to be struck off the rolls.

21. Every such chief clerk shall hold his office during his good behaviour, and so long as he shall personally give his attendance upon his duties, and shall conduct himself honestly and faithfully in the execution of the duties of his office, but subject to the power hereinafter contained to remove any chief clerk for any cause which the Lord Chancellor and judges removing may think sufficient.

Chief clerks to hold office during good behaviour;

22. Every such junior clerk shall hold his office at the pleasure of the judge to whose court he shall be attached.

and clerks during pleasure.

23. Such chief clerks and junior clerks shall be respectively under the control of the judge to whose court they shall respectively be attached, and shall attend at such places, during such times, and for such hours in each day,

Chief and junior clerks to be under control and direction of judges.

and perform such duties, as such judge shall from time to time direct.

Chief and junior clerks subject to same penalties, &c. as imposed, &c. under act 3 & 4 W. 4, c. 94, as respects officers of the Court of Chancery.

24. Every chief clerk and every junior clerk to be appointed under this act shall be subject and liable to such and the same prohibitions, prosecutions, penalties and punishments, as are by an act passed in the session holden in the third and fourth years of the reign of King William the Fourth, chapter ninety-four, imposed and directed with respect to persons holding any office, situation or employment in the said Court of Chancery, or under any of the judges or officers thereof, in the same manner as if the enactments therein contained relating to such officers of the said court respectively were here repeated:

Power to Lord Chancellor with concurrence of judges to remove chief clerks.

25. It shall be lawful for the Lord Chancellor, with the concurrence of the Master of the Rolls and Vice-Chancellors for the time being, or any two of them, by any order to remove any chief clerk to be appointed under this act from his office, without stating any cause for such removal.

Business to be disposed of in chambers by the judges.

26. The business to be disposed of by the Master of the Rolls and Vice-Chancellors respectively while sitting at Chambers shall consist of such of the following matters as the judge shall from time to time think may be more conveniently disposed of in chambers than in open court; videlicet, applications for time to plead, answer or demur; for leave to amend bills or claims; for enlarging publication; and also applications for the production of documents; applications relating to the conduct of suits or matters; applications as to the guardianship and maintenance of infants; matters connected with the management of property; and such other matters as each such judge may from time to time see fit, or as may from time to time be directed by any general order of the Lord Chancellor.

Judges may adjourn from open court to chambers, and vice versa, the consideration of any matter.

27. It shall be lawful for the Master of the Rolls and every of the Vice-Chancellors respectively when sitting in open court to adjourn for consideration in chambers any matter which, in the opinion of such judge, may be more conveniently disposed of in chambers, or, when sitting in chambers, to direct any matter to be heard in open court which he may think ought to be so heard.

Mode of proceeding before judges at chambers to be by summons as at common law.

28. The mode of proceeding before the Master of the Rolls and Vice-Chancellors respectively at chambers shall be by summons, and as near as may be according to the form now adopted by the judges of the superior courts of common law when sitting at chambers.

Power to the

29. From and after the first day of Michaelmas term, one

thousand eight hundred and fifty-two, the Master of the Rolls and the Vice-Chancellors respectively shall have the sole power (subject to any rules which may be made by the Lord Chancellor with the advice and assistance of them or any two of them) to order what matters and things shall be investigated by and before their respective chief clerks, either with or without their direction, during their progress, and what matters and things shall be heard and investigated by themselves; and particularly, if the judge shall so direct, his chief clerks respectively shall take accounts, and make such inquiries as have usually been prosecuted before the chief clerks of the present Masters; and the judge shall give such aid and directions in every or any such account or inquiry as he may think proper, but subject nevertheless to the right hereinafter provided for the suitor to bring any particular point before the judge himself.

judges to direct what matters, &c. shall be heard and investigated by themselves, and what by their chief clerks.

Right to suitor to bring any point before the judge.

30. Each chief clerk shall, for the purpose of any proceedings directed by the Master of the Rolls or any Vice-Chancellor to be taken before him, have full power to issue advertisements, to summon parties and witnesses, to administer oaths, to take affidavits and acknowledgments, other than acknowledgments by married women, to receive affirmations, and, when so directed by the judge to whose court he is attached, to examine parties and witnesses either upon interrogatories or *vivâ voce*, as such judge shall direct.

Power to chief clerks to issue advertisements and summonses, to administer oaths, &c. as the judge shall direct.

31. Parties and witnesses so summoned shall be bound to attend in pursuance of any such summons, and shall be liable to process of contempt, in like manner as parties or witnesses are now liable thereto in case of disobedience to any order of the said court, or in case of default in attendance, in pursuance of any order of the said court, or of any writ of subpoena ad testificandum; and all persons swearing or affirming before any such chief clerk shall be liable to all such penalties, punishments and consequences for any wilful and corrupt false swearing or affirming contained therein as if the matters sworn or affirmed had been sworn and affirmed before any person now by law authorized to administer oaths, to take affidavits, and to receive affirmations.

Parties, &c. not attending liable to process of contempt and to penalties for false swearing, &c.

32. The directions to be given by the Master of the Rolls or any Vice-Chancellor for or touching any proceedings before his chief clerk shall require no particular form, but the result of such proceedings shall be stated in the shape of a short certificate to the judge, and shall not be embodied in a formal report, unless in any case the judge shall see fit so to direct; and when the judge shall approve

Result of proceedings before chief clerk to be embodied in form of short certificate, &c.

of such certificate or report he shall sign the same in testimony of his adopting the same.

No exceptions to lie to certificate. &c.

Parties at liberty to take opinion of judge upon any particular point.

Certificate, &c., signed and adopted by judge, binding on all parties, unless discharged or varied.

Sections 13, 14, & 15 of 3 & 4 W. 4, c. 94, repealed.

All powers possessed by Masters to be exercised by judges.

Power to judges to exercise the powers given by sections 7, 8, and 9 of this act, and to dispose of any cause, &c. in open court.

33. No exceptions shall lie to any certificate or report of the chief clerk, although signed and adopted by the judge; but any party shall, either during the proceedings before such chief clerk, or within such time after such proceedings shall have been concluded, and before the certificate or report shall have been signed and adopted, as the Lord Chancellor shall by any general order direct, be at liberty to take the opinion of the judge upon any particular point or matter arising in the course of the proceedings, or upon the result of the whole proceeding when it is brought by the chief clerk to a conclusion.

34. When any certificate or report of the chief clerk shall have been signed and adopted by the judge the same shall be filed in like manner as reports are now filed, and shall thenceforth be binding on all the parties to the proceedings, unless discharged or varied, either at chambers or in open court, according to the nature of the case, upon application by summons or motion within such time as shall be prescribed in that behalf by any general order of the Lord Chancellor; and nothing herein contained shall prejudice or affect the power of the court at any time to open any such certificate or report upon the same or the like grounds as any report of a Master of the said court which has been absolutely confirmed may now be opened.

35. From and after the first day of Michaelmas term, one thousand eight hundred and fifty-two, the thirteenth, fourteenth and fifteenth sections of the act passed in the session of parliament holden in the third and fourth years of his Majesty King William the Fourth, chapter ninety-four, shall be repealed.

36. From and after the first day of Michaelmas term, one thousand eight hundred and fifty-two, all or any of the powers, authorities and jurisdiction given to the Masters in ordinary of the said court by any act or acts then in force, may be exercised by the Master of the Rolls and Vice-Chancellors respectively.

37. From and after the first day of Michaelmas term, one thousand eight hundred and fifty-two, the powers given to the Masters in ordinary of the said court, and to the court, by sections seven, eight and nine of this act, may be exercised by the Master of the Rolls and Vice-Chancellors respectively with respect to causes, matters and things which may be depending before them respectively in chambers; and if, and when, any such judge shall be of opinion

that any cause, matter or thing so depending ought to be finally disposed of, unless the parties or some of them can show good cause to the contrary, he shall direct the same to stand in his paper in open court, giving such notice thereof, if any, as he shall deem right, and proceed to dispose thereof accordingly.

38. It shall be lawful for the Lord Chancellor, with the advice and consent of the Master of the Rolls and Vice-Chancellors, or any two of them, and they are hereby required, forthwith to make and issue general rules and orders for regulating the times and form and mode of procedure before the Master of the Rolls and Vice-Chancellors respectively, sitting at chambers, and their respective chief clerks, and generally the practice of the said court in respect of the matters to which this act relates, and for regulating the fees and allowances to solicitors of the said court in respect to such matters, and also for regulating the fees to be payable by suitors of the said court to the officers thereof in respect of the business to be conducted before the Master of the Rolls and Vice-Chancellors respectively sitting at chambers, and their respective chief clerks; and such rules and regulations may from time to time be rescinded, altered, varied or added to by the like authority; and all such rules and regulations as aforesaid shall take effect as general orders of the said court: provided always, that no greater amount of fees shall be payable by the suitors of the said court to the officers thereof, in respect of the business to be conducted before the Master of the Rolls and the Vice-Chancellors respectively sitting at chambers, and their respective chief clerks, than is now levied in respect of similar or analogous business in the Masters' offices.

39. From and after the said first day of Michaelmas term, one thousand eight hundred and fifty-two, the course of practice and proceeding in the offices of the Masters in ordinary of the said court, so far as the same may be inconsistent with the rules and regulations to be so as aforesaid made by the Lord Chancellor with such advice and consent as aforesaid, shall be abolished; and the Masters in ordinary of the said court shall, with reference to the proceedings before them, adopt all such rules and regulations, and shall conduct the business of their respective offices, as nearly as may be, in the manner in which similar business shall be conducted by the Master of the Rolls and Vice-Chancellors respectively, save only that the Master, instead of communicating directly with the judge, is to report shortly the result of his inquiries to the court.

Power to Lord Chancellor, with advice, &c. of judges, to make rules and orders for regulating the mode of procedure at chambers, payment of fees, &c.

Business in Masters' offices to be conducted in the same manner as similar business is conducted by judges, &c.

Power to judges at chambers to take opinion of conveyancing counsel in certain matters.

Parties may object to such opinion, which may be disposed of in chambers or open court.

Power to Lord Chancellor to nominate not less than six conveyancing counsel of ten years practice, &c.

Power to obtain the assistance of accountants, merchants, &c.

Taxing master to regulate fees to conveyancing counsel, &c., subject to appeal.

Salary of 1200*l.* to be paid to each chief clerk, and 250*l.* to each junior clerk, with power to the

40. From and after the first day of Michaelman term, one thousand eight hundred and fifty-two, it shall be lawful for the court or for any judge thereof when sitting at chambers to receive and act upon the opinion of conveyancing counsel in actual practice, to be nominated as hereinafter mentioned, in all cases in which, according to the present practice of the court and of the Master's office, it has been usual for the Master to require or receive the opinion of conveyancing counsel for his aid and assistance in the investigation of the title to an estate, with a view to an investment of money in the purchase or on mortgage thereof, or with a view to a sale thereof, or in the settlement of a draft of a conveyance, mortgage, settlement, or other instrument, or otherwise, and in such other cases as the Lord Chancellor shall by any general order direct; but it shall be competent for any party to object to any opinion of any such counsel when he shall deem it open to objection, and thereupon the point in dispute shall be disposed of by the court, or by the judge sitting in chambers, according to the nature of the case.

41. It shall be lawful for the Lord Chancellor to nominate any number of conveyancing counsel in actual practice, not less than six, who shall have practised as such for ten years at least, to be the conveyancing counsel upon whose opinion the court, or any judge thereof, may act in any of the cases last before mentioned, and to supply vacancies in such list from time to time, and to distribute the business among such counsel in such order and manner as to the Lord Chancellor shall seem fit.

42. It shall be lawful for the said court, or any judge thereof, in such way as they may think fit, to obtain the assistance of accountants, merchants, engineers, actuaries, or other scientific persons, the better to enable such court or judge to determine any matter at issue in any cause or proceeding, and to act upon the certificate of such persons.

43. The allowances in respect of fees to such conveyancing counsel, accountants, merchants, engineers, actuaries and other scientific persons shall be regulated by the Taxing Master of the said court, subject to an appeal to the judge to whose court the cause or matter shall be attached, whose decision shall be final.

44. There shall be paid to every chief clerk of the Master of the Rolls and Vice-Chancellors respectively the net yearly salary of one thousand two hundred pounds, and it shall be lawful for the Lord Chancellor from time to time to pay to every junior clerk to be appointed under this act the net yearly salary of two hundred and fifty pounds, and

by any order to direct that the salary of any such chief clerk as aforesaid may be increased from time to time until the same shall amount to the net yearly sum of one thousand five hundred pounds, and to direct that the salary of such junior clerk may be increased to the net yearly sum of three hundred pounds: Provided always, that no such increase shall be made to any such chief clerk until he shall have been in office for three years, nor to such junior clerk until he shall have been in office five years, nor in either case without a certificate from the judge to whose court such chief clerk or junior clerk shall be attached, that he has conducted himself in such office to the entire satisfaction of such judge: Provided also, that the salary to such chief clerk shall not be increased at one period by any greater amount than the sum of one hundred pounds.

Lord Chancellor from time to time to increase same to 1500*l.* and 300*l.* respectively.

45. It shall be lawful for the Lord Chancellor, with the consent of the Commissioners of her Majesty's Treasury, by any order made on a petition presented to him for that purpose, to order (if he shall think fit) to be paid to any person executing the office of chief clerk or junior clerk to the Master of the Rolls or any of the Vice-Chancellors, who shall be afflicted with some permanent infirmity disabling him from the due execution of his office, and shall be desirous of resigning the same, an annuity not exceeding two-third parts of the yearly salary which such person shall be entitled to at the time of presenting such petition, to be paid and payable at the same times and out of the same funds as compensations under this act are directed to be paid.

Pensions to chief and junior clerks in cases of permanent infirmity.

46. It shall be lawful for every person who on the first day of Hilary term, one thousand eight hundred and fifty-two, held the office of chief clerk to any of the Masters in ordinary of the said Court of Chancery, and who is not hereby appointed a chief clerk to the Master of the Rolls or to one of the Vice-Chancellors under the authority of this act, upon the Master to whom he shall be such chief clerk being released from the duties as such Master under the authority of this act, or upon the death or resignation of any such Master previously to his being so released, to continue to be entitled to receive during his life, by way of retiring pension, the full amount of his salary as such chief clerk, such salary to be paid and payable out of such funds and in such manner as herein-after in that behalf directed.

On retirement of Masters, their chief clerks to be entitled to retiring pensions of same amount as salary.

47. It shall be lawful for any person who on the said first day of Hilary term, one thousand eight hundred and fifty-two, held the office of junior clerk to any Master in ordinary of the said Court of Chancery hereby released, or who shall be released by the Lord Chancellor under the authority of

Compensation to junior clerks on retirement of Masters.



this act, to make a claim for compensation to the commissioners of her majesty's treasury for the time being, at any time after the Master in whose office he shall have been employed shall have been released; and such commissioners are hereby required, within the space of six calendar months after every such claim shall be made, by examination upon oath or otherwise, which oath they and every of them are and is hereby authorized to administer, to inquire whether any, and, if any, what compensation ought to be made to such person claiming such compensation; and in all cases in which it shall appear to the said commissioners that compensation ought to be granted, it shall be lawful for the said commissioners, by warrant under their hands, to order and direct that such annual compensation shall be made to the persons claiming such compensation as aforesaid, or any of them, as to the said commissioners in their discretion shall seem just and reasonable; and all such compensations shall be paid and payable out of such funds and in such manner as hereinafter in that behalf directed: provided always, that an account of all such compensation shall, within fourteen days next after the same shall be so granted, be laid on the table of the House of Commons, if parliament shall be then assembled, or if parliament shall not be then assembled, then within fourteen days after the meeting of the parliament then next following.

Salaries, &c.  
to be paid  
quarterly out  
of the suitors'  
fee fund ac-  
count.

48. Except as herein otherwise provided, all salaries under this act shall grow due from day to day, but shall be payable, under an order of the Lord Chancellor, on the third day of February, the third day of May, the third day of August, and the third day of November in every year, or on such other days as the Lord Chancellor shall from time to time by any order direct, and shall be paid to the parties entitled thereto, or their respective executors or administrators, out of the fund standing in the name of the accountant general of the Court of Chancery, to the account intituled "The Suitors' Fee Fund Account," but subject and without prejudice to the payment of all salaries and other sums of money by any former act or acts now in force directed or authorized to be paid thereout.

Payment of  
compensa-  
tions to be  
made quar-  
terly out of  
parliamentary secu-  
rities.

49. Except as herein otherwise provided, all compensations under this act shall grow due from day to day, but shall be payable on the third day of February, the third day of May, the third day of August, and the third day of November in every year, or on such other days as the Lord Chancellor shall from time to time by any order direct, and shall be paid to the parties entitled thereto, or their respec-

tive executors or administrators, out of the interest and dividends of the government or parliamentary securities now or hereafter to be placed in the name of the accountant general of the Court of Chancery to the two accounts intituled "Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," and "Account of Securities purchased with surplus Interest arising from Securities carried to an account of Monies placed out for the benefit and better Security of the Suitors of the High Court of Chancery," or either of them, by the governor and company of the Bank of England, by virtue of any order or orders of the Lord Chancellor to be made from time to time for that purpose, without any draft from the accountant-general, but subject and without prejudice to the payment of all salaries and othersums of money by any former act or acts now in force directed or authorized to be paid thereout.

50. If at any time hereafter any of the Masters in ordinary of the said court, or any of their chief or junior clerks, shall be appointed to and shall accept any office or employment connected with any court of law or equity, or under the crown, or in any public department under the crown, and if the salary attached to such office or employment, or any retiring pension or allowance in respect thereof, shall equal or exceed in amount the retiring pension or compensation payable to such Master or such clerk under this act, such last-mentioned retiring pension or compensation shall, during the continuance of such Master or such clerk in such office or employment, or so long as he shall be in the receipt of any retiring pension or allowance in respect thereof equal to or greater than his retiring pension or compensation under this act, cease to be payable to such Master or such clerk, as the case may be; and if the salary attached to such office, or the retiring pension or allowance in respect thereof, shall be less than the amount of such Master's retiring pension or such clerk's compensation under this act, such retiring pension or compensation under this act shall be reduced by the amount of such salary or of such retiring pension or allowance, as the case may be.

On appointment of Masters or clerks to office or employment under the crown, the retiring pension or compensation under this act to be regulated by the salary, &c., of such office or employment.

51. Such of the Masters' offices in Southampton Buildings, Chancery-lane, as shall not be assigned by the Lord Chancellor as chambers for the Master of the Rolls and Vice-Chancellors respectively, or shall not be required for the Masters, shall be appropriated to any other purposes connected with the Court of Chancery as the Lord Chancellor may from time to time direct, or the same may be let as chambers, and the rent thereof paid to the suitors' fund;

Appropriation of the Masters' offices, in Southampton Buildings.

and when all the Masters have resigned, died, or have been released under this act, the offices may be sold by order of the Lord Chancellor, and the proceeds of such sale paid to the suitors' fund, in such manner and to such particular account as the Lord Chancellor shall by any order direct; and it shall be lawful for the Lord Chancellor by any order to direct that the premises so to be sold, and the fee simple and inheritance thereof, shall vest in the purchaser or purchasers of the same, his or their heirs and assigns, or as he or they shall direct; and such order shall have the effect of vesting the same accordingly, without any conveyance or other assurance from her Majesty, in whom the same are now vested by virtue of an act passed in the thirty-second year of the reign of King George the Third, chapter forty-two.

Power to her  
Majesty to  
appoint a  
Vice-Chan-  
cellor as suc-  
cessor to Sir  
G. J. Turner.

52. And whereas by an act passed in the fifth year of the reign of her present Majesty, session one, chapter five, her Majesty was by section nineteen empowered to appoint, by letters patent under the great seal, two fit persons to be additional judges assistant to the Lord Chancellor in the discharge of the judicial functions of his office, each of such additional judges to be called Vice-Chancellors; and by section twenty-one it was provided, that nothing therein contained should authorize the appointment of a successor to the Vice-Chancellor secondly appointed under the authority of the said act; and whereas by an act passed in the session holden in the fourteenth and fifteenth years of the reign of her present Majesty, chapter four, her Majesty was by section one empowered to appoint, by letters patent under the great seal, a fit person to be an additional judge assistant to the Lord Chancellor, in discharge of the judicial functions of his office, in the place of the right honourable Sir James Wigram, knight, who was the Vice-Chancellor secondly appointed under the authority of the said act of the fifth year of her Majesty, and who had resigned the office of Vice-Chancellor to which he had been so appointed: and whereas the right honourable Sir George James Turner, knight, is the Vice-Chancellor appointed under the said last-mentioned act: and whereas by section nine of the same act it was provided, that nothing therein contained should authorize the appointment of a successor to the Vice-Chancellor appointed under the authority thereof: and whereas by virtue of this act additional duties will devolve upon the judges of the said court, and it is expedient that any vacancy which may occur in the said office of Vice-Chancellor should be supplied: be it therefore enacted, That it shall be lawful for

her Majesty, from time to time when and as any vacancy shall occur in the office of Vice-Chancellor now held by the said Sir George James Turner, by the death, resignation or removal from office of the said Sir George James Turner, or his successor for the time being, it shall be lawful for her Majesty, by letters patent under the great seal of the United Kingdom, to appoint a fit person, being or having been a barrister of fifteen years standing at the least, to supply such vacancy.

53. The Vice-Chancellor to be appointed under this act shall have all the same powers and privileges, and the same rank, and shall be subject to the same provisions, duties and observances, as the said Sir George James Turner shall, at or immediately before his death, resignation or removal from office, have or be subject to under the said act of the fourteenth and fifteenth years of her present Majesty, chapter four, and this act, or any other act or acts then in force, excepting that, as between himself and the other Vice-Chancellors or Vice-Chancellor for the time being, he shall have rank and precedence next after the Vice-Chancellors or Vice-Chancellor, if any, who may be senior to him in appointment to office.

Such Vice-Chancellor to have same power, &c., as Sir G. J. Turner has.

54. Such Vice-Chancellor shall have a secretary, usher and trainbearer, to be from time to time appointed and removed by him at his pleasure; and the secretaries, registrars and other officers appointed to attend the Lord Chancellor shall attend such Vice-Chancellor when sitting for the Lord Chancellor, and also when sitting in his separate court or in chambers, as circumstances shall require, and as the Lord Chancellor shall order and direct.

Officers and attendants to the Vice-Chancellor.

55. The salary of such Vice-Chancellor, and the salaries of his secretary, usher and trainbearer, shall be of the same amounts, and paid out of the same funds, and in like manner, as the salaries of the said Sir George James Turner, his secretary, usher and trainbearer, respectively, shall be payable at or immediately before his death, resignation or removal from office.

Salaries of Vice-Chancellor and his officers to be as at present.

56. It shall be lawful for her Majesty, by letters patent under the great seal of the United Kingdom, to grant to any person executing the office of Vice-Chancellor in pursuance of this act, on his resignation of or his ceasing to execute his office, an annuity of the same amount, after the same period of service, under the same circumstances, subject to the same conditions, and payable out of the same fund, as the annuity authorized to be granted to each of the Vice-

Her Majesty may grant retiring pension to Vice-Chancellor so appointed.

Chancellors appointed under the said act of the fifth year of her present Majesty, chapter five.

Lord Chancellor may appoint court-keepers.

57. It shall be lawful for the Lord Chancellor to appoint one or more person or persons, removable at pleasure, for the purpose of keeping order in the court of the Vice-Chancellor to be appointed under this act; and the salary of the person or persons appointed or to be appointed, under this act or under any act or acts now in force, to keep order in the court of the Vice-Chancellor to be appointed under the authority of this act, shall be of such amount, not exceeding the yearly sum of eighty pounds, as the Lord Chancellor may think reasonable; and such salary shall be paid to each such person so to be appointed, out of the same funds, and at the same time, and in like manner as the salaries of like persons have heretofore been paid.

Rights and establishments of the present Masters to continue until released in pursuance of this act.

58. Nothing herein contained shall in anywise prejudice or affect the title of the present Masters in ordinary of the said court to the salaries payable to them as such Masters unless and until they shall be respectively released under this act, or the power of the Lord Chancellor to order a retiring allowance to any of them or any of their clerks who may be or become afflicted with some permanent infirmity disabling him from the due execution of his office, and who shall be desirous of resigning the same; and every of the present Masters in ordinary of the said court, until released under this act, shall have the same establishment of clerks, whose salaries and compensations shall be payable out of the same funds as the salaries and compensations of their clerks are now payable; and all the expenses attending the establishment of the Masters' offices shall be paid in like manner as such expenses are now paid.

Nothing to affect the rights, &c., of accountant-general as a Master in ordinary.

59. Nothing herein contained shall prejudice or affect the rights, duties or privileges of the accountant-general of the said Court of Chancery as a Master in ordinary of the said court, or any salary or other payment payable to the said accountant-general as such Master in ordinary, or his right or title to any retiring allowance under any act or acts of parliament now in force, nor shall the said accountant-general be called upon or required to do or perform any duties or services as such Master in ordinary, other than such as are now usually performed by him.

The retiring Lord Chancellor may deliver written judgments within

60. Whereas it has frequently happened that after cases have been fully heard by the Lord Chancellor in the Court of Chancery and are standing for judgment, the Lord Chancellor has delivered up the great seal without being able, by reason of other urgent public business, to deliver judgment

therein, and much inconvenience and expense to the parties six weeks after his resignation.  
has been thereby occasioned :

For remedy thereof be it enacted, that in every such case it shall be lawful for the person who has so delivered up the great seal, within six weeks after he shall have delivered up the same, to give in to the registrar of the said court a written judgment therein, signed by him ; and a decree or order, as the case may require, shall be drawn up in pursuance of such judgment ; and every such decree or order shall have the same force and effect as if the judgment in pursuance whereof it is drawn up had been given in open court the day before he shall have so delivered up the great seal.

61. In the construction of this act the expression "her Majesty" shall mean the sovereign for the time being ; and the expression "Lord Chancellor" shall mean also and include the Lord Chancellor, lord keeper and lords commissioners for the custody of the great seal of the United Kingdom for the time being. Construction of terms.

15 & 16 VICT. CAP. 87.

*An Act for the Relief of Suitors of the High Court of Chancery.* [1st July, 1852.]

WHEREAS several of the officers of the Court of Chancery have from time to time received and do now receive for their own use various fees and emoluments for business done and transacted by them in or by virtue of their respective offices: And whereas it is expedient that such officers should not henceforth retain such fees and emoluments for their own use, but that they should receive adequate salaries for the performance of their respective duties: And whereas it is expedient that for the relief of the suitors of the said court further provision should be made with respect to the fees now payable by them, and that increased facilities should be afforded for the despatch of the business of the said court, and that certain offices connected with the said court should be abolished: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and com-

mons, in this present parliament assembled, and by the authority of the same, as follows :

No officer hereafter to receive fees for his own use, but all officers to be paid by salary.

1. From and after the twenty-eighth day of October, one thousand eight hundred and fifty-two, no officer of the Court of Chancery, or of any of the judges thereof, shall be entitled to receive and retain for his own use any fee or reward whatsoever, and all officers of the Court of Chancery and of the judges thereof now entitled to receive and retain any fees or other payments for their own use, which by virtue of this act they will cease so to receive after the twenty-eighth day of October, one thousand eight hundred and fifty-two, and whose salaries are not fixed by this act, shall, while they continue to hold their respective offices, receive in lieu of all fees or other payments whatsoever now received by or paid or payable to them for their own use such salary as, having regard to the emoluments heretofore received by them, and to the nature and tenure of such offices, the commissioners of her Majesty's Treasury shall think just, and upon the present holders of such offices respectively ceasing to hold the same the commissioners of her Majesty's Treasury shall fix the salaries to be thereafter received in respect thereof with reference to the nature and duties of such offices respectively.

Officers to continue to receive fees until Lord Chancellor shall otherwise direct, and pay them into the suitors' fee fund.

2. It shall be lawful for all officers of the Court of Chancery and of the judges thereof heretofore entitled to receive any fees or emoluments for their own use, and for their successors in their respective offices, and their several and respective clerks or agents, to continue to receive and take all and every the fees and emoluments which have been accustomed to be paid to them, until the Lord Chancellor shall by any order or orders otherwise direct, and all such fees and emoluments as shall accrue and be received by such officers respectively, from and after the twenty-eighth day of October, one thousand eight hundred and fifty-two, shall be accounted for and paid by them respectively once in every month into the Bank of England, in the name of the Accountant-General of the Court of Chancery, to be placed to the account there, intituled "The Suitors' Fee Fund Account," the amount so received and paid by such officers respectively to be verified by the affidavit of the accounting party.

Officers not to take gratuities.

3. From and after the twenty-eighth day of October, one thousand eight hundred and fifty-two, if any officer of the Court of Chancery or of any of the judges thereof shall, for anything done or pretended to be done relating to his office, situation, or employment, or under colour of doing

anything relating to his office, situation, or employment, wilfully take, demand, receive, or accept, or appoint or allow any person whatsoever to take for him or on his account, or for or on account of any person by him named, any fee, gift, gratuity, or emolument, or anything of value, other than his salary and what is allowed or directed to be taken by him under this act or any order to be made under this act, the person so offending, when duly convicted, shall forfeit and pay the sum of five hundred pounds, and shall be removed from any office, situation, or employment he may hold in the said court, and shall be rendered and he is hereby rendered incapable for ever thereafter of holding any office, situation, or employment in the said court, or otherwise serving her Majesty, her heirs or successors.

4. Any such offender may be prosecuted either by information at the suit of her Majesty's attorney general, or by criminal information before her Majesty's Court of Queen's Bench, or by indictment.

How offenders to be prosecuted.

5. From and after the twenty-eighth day of October, one thousand eight hundred and fifty-two, the several allowances for copying provided for and directed to be paid to the clerk of reports, the clerks of entries, the assistant clerk of affidavits, the clerks of the examiners, and the copying or writing clerks of the masters in ordinary of the said court, by any act or acts of parliament now in force, shall cease; and it shall be lawful for the Lord Chancellor, by any order or orders to be from time to time made by him, to make such regulations as to the making and delivering copies of the pleadings and other proceedings in the said court, and of the documents relating thereto, and the manner in which such copies should be paid for, and the amount of charge for the same, and by whom the amount to be so charged should be received, as may from time to time seem expedient.

Allowances for copying to cease, and power to Lord Chancellor to make regulations as to copies.

6. It shall be lawful for the Lord Chancellor, by any order or orders to be from time to time made by him, to vary, reduce, or abolish all or any of the fees payable in relation to proceedings in the Court of Chancery, and to substitute one or more fee or fees in lieu thereof, and to direct that all or any of such fees shall, from a day to be named in such order or orders and thenceforth, be collected by means of stamps to be provided and used in manner hereinafter mentioned.

Power to Lord Chancellor, by order, to vary, reduce and abolish fees, and to provide for their collection by stamps.

7. From and after the day named in such order or orders, unless and until the Lord Chancellor shall otherwise direct, none of the fees mentioned in such orders respectively shall

After such order, fees not to be received in



money, but  
by means of  
stamps.

be received in money, but by a stamp denoting the amount of the fee which otherwise would be payable; and where any fee shall be payable in respect of any document such stamp shall, at the expense of the party liable to pay the fee, and in such manner and under such regulations as shall by any order or orders be directed, be stamped or affixed on the vellum, parchment, or paper on which the proceeding in respect whereof such fee is payable is written, printed, or engrossed, or which may be otherwise used in reference to such proceeding.

Commis-  
sioners of In-  
land Re-  
venue to give  
necessary di-  
rections as to  
the stamps,  
to keep sepa-  
rate accounts,  
and pay  
monies into  
suitsors' fee  
fund.

8. The Commissioners of Inland Revenue shall from time to time, upon the receipt of any order of the Lord Chancellor in that behalf, give the necessary directions for carrying the same into effect, and shall provide everything that is requisite for that purpose, and shall do or cause to be done everything that is necessary for the receipt and collection of the money to be paid for such stamps; and the said commissioners shall cause separate and distinct accounts to be kept of all sums of money received or collected by them under the provisions of any such order or orders, and of all costs, charges, and expenses incurred by them or by their direction in carrying the same into effect, and it shall be lawful for the said commissioners to pay and to deduct and retain out of such monies all such costs, charges, and expenses, and also to deduct all sums of money repaid on allowances for spoiled stamps, as hereinafter provided for; and after such deduction they shall from time to time, and in such manner as the Lord Chancellor shall by any order direct, pay the monies so to be received and collected into the Bank of England to the credit of the Accountant-General of the Court of Chancery, to be placed to the account there, intituled "The Suitsors' Fee Fund Account."

Provision  
for sale of  
stamps.

9. It shall be lawful for the Lord Chancellor to direct any of the officers of the Court of Chancery whose duties may be diminished in consequence of the substitution of stamps for money payments, or otherwise, under this act, to act under the directions of the Commissioners of Inland Revenue in the sale and distribution of all or any of the stamps to be used under this act: Provided always, that in case it appear to the Lord Chancellor, having reference to the duties to be performed by such officers or any of them, that it is not convenient that they should act as aforesaid in the sale and distribution of stamps, it shall be lawful for the Commissioners of Inland Revenue to appoint persons for such sale and distribution, and to allow to such persons so

appointed by them such discount or poundage as they may think fit.

10. It shall be lawful for the Commissioners of Inland Revenue from time to time to make such regulations as they shall think fit for the allowance of such stamps, issued under the provisions of this act, as may have been spoiled or rendered useless or unfit for the purpose intended, or for which the owner may have no immediate use, or which through mistake or inadvertence may have been improperly or unnecessarily used, and such allowance shall be made either by giving other stamps in lieu of the stamps so allowed, or by repaying the amount or value to the owner or holder thereof, after deducting the discount or poundage (if any) allowed on the sale of stamps of the like kind.

Commissioners of Inland Revenue may make regulations as to allowance for spoiled stamps.

11. The provisions contained in the several acts for the time being in force relating to stamps under the care or management of the commissioners of inland revenue shall (so far as the same are applicable and consistent with the provisions of this act), in all cases not hereby expressly provided for, be of full force and effect with respect to the stamps to be provided under or by virtue of this act, and to the vellum, parchment or paper on or to which the same stamps shall be impressed or affixed, and be applied and put in execution for collecting and securing the sums of money denoted thereby, and for preventing, detecting and punishing all frauds, forgeries and other offences relating thereto, as fully and effectually to all intents and purposes as if such provisions had been herein repeated and specially enacted with reference to the said last-mentioned stamps and sums of money respectively.

Provisions of former acts relating to stamps to be applicable to stamps under this act.

12. No document which by any order or orders to be respectively made as aforesaid shall be required to have a stamp impressed thereon or affixed thereto, shall be received or filed, or be used in relation to any proceeding in the Court of Chancery, or be of any validity for any purpose whatsoever, unless or until the same shall have a stamp impressed thereon or affixed thereto, in the manner directed by such order: provided always, that if at any time it shall appear that any such document which ought to have had a stamp impressed thereon or affixed thereto has, through mistake or inadvertence, been received or filed or used without having such stamp impressed thereon or affixed thereto, it shall be lawful for the Lord Chancellor, if he think fit, to order that such stamp shall be impressed thereon or affixed thereto, and thereupon, when a stamp shall have been impressed on such document or affixed thereto, in compliance with any such

No document to be received or used unless stamped.

order, such document, and every proceeding in reference thereto, shall be as valid and effectual as if such stamp had been impressed thereon or affixed thereto in the first instance.

Officers guilty of fraud or wilful neglect in relation to stamps liable to be dismissed.

13. If any officer of the Court of Chancery or other person shall do or commit or connive at any fraudulent act or practice in relation to any stamp to be used under the provisions of this act, or to any fee or sum of money to be collected or which ought to be collected by means of any such stamp, or if any such officer or person shall be guilty of any wilful act, neglect or omission in relation to any such stamp or fee as aforesaid, whereby any fee or sum of money which ought to be collected for the benefit of the said fee fund shall be lost to the said fee fund, or the payment thereof evaded, every such officer or person so offending shall be dismissed from his office or employment, if the Lord Chancellor shall think fit so to order.

Power to abolish fees in lunacy, and to substitute a per centage in lieu thereof.

14. It shall be lawful for the Lord Chancellor, intrusted by virtue of the queen's sign manual with the care and commitment of the custody of the persons and estates of persons found idiot, lunatic or of unsound mind, by any order or orders, to be from time to time made by the Lord Chancellor, intrusted as aforesaid, to abolish all or any of the fees payable in relation to proceedings in lunacy, and to direct that such of the fees as shall not be abolished, if any, shall be collected by means of stamps in the manner hereinbefore provided with respect to fees payable in relation to proceedings in the Court of Chancery, and also to direct that in lieu of all or any of such fees a per centage or *ad valorem* payment shall be paid on the clear annual incomes of the persons found idiot, lunatic or of unsound mind, and on the amount of the taxed costs incurred in proceedings in lunacy, or on such annual incomes only, or on the amount of such taxed costs only, the amount of such annual incomes as aforesaid, and the amount of the per centage or *ad valorem* payment to be paid thereon and on such taxed costs to be from time to time ascertained and fixed in such manner, by such means and under such regulations as the Lord Chancellor, intrusted as aforesaid, shall by any order or orders direct, and the amount of such per centage or *ad valorem* payment to be paid into the Bank of England in the name of the accountant-general of the Court of Chancery, to be placed to the account there, intituled "The Suitors' Fee Fund Account," at such times and by such persons as the Lord Chancellor, intrusted as aforesaid, shall by any order or orders direct: provided always, that the amount to be

raised by such per centage or *ad valorem* payment shall not exceed the amount which may from time to time be required to provide for the payment of the salaries, expenses and sums of money payable under the act of the session holden in the fifth and sixth years of the reign of her present majesty, chapter eighty-four, or any other acts or act of parliament for the time being in force with respect to lunatics; and that a statement of the amount of such per centage or *ad valorem* payment shall from time to time, within fourteen days next after the same shall have been settled, be laid on the table of the House of Commons, if parliament shall be then assembled, or if parliament shall not be then assembled, then within fourteen days after the meeting of parliament then next following.

15. All the jurisdiction, and all the powers and authorities of a judicial nature, given by the act of the session holden in the first year of the reign of King William the Fourth, chapter sixty-five, by "The Trustee Act, 1850," and by any other acts or act of parliament now in force, to the Lord Chancellor, intrusted by virtue of the queen's sign manual with the care and commitment of the custody of the persons and estates of persons found idiot, lunatic or of unsound mind, shall belong to and may be exercised by all or any of the persons or person for the time being intrusted as aforesaid.

Certain statutory jurisdiction given to Lord Chancellor, intrusted with care of lunatics, to be exercised by the persons for the time being so intrusted.

16. And whereas under certain acts of parliament now in force the salaries of the Master of the Rolls, and of the Vice-Chancellor appointed under the act of the session holden in the fifty-third year of the reign of King George the Third, chapter twenty-four, are payable out of and charged upon the consolidated fund of the United Kingdom, but the salary of the Lord Chancellor (except that portion thereof payable to him as Speaker of the House of Lords), and the salaries of the Lords Justices of the Court of Appeal in Chancery, and of the other Vice-Chancellors, are payable out of the interest and dividends arising from the government or parliamentary securities placed in the name of the accountant-general of the Court of Chancery which have been purchased from time to time with monies taken out of the common and general cash belonging to the suitors of the Court of Chancery, and lying dead and unemployed in the Bank of England: and whereas it is expedient that the salaries of all the judges of the Court of Chancery should be paid out of the consolidated fund of the United Kingdom, instead of out of the interest of the securities purchased with the cash of the suitors as aforesaid: be it therefore enacted,

Salaries of Lord Chancellor and Judges of the Court of Chancery to be paid out of consolidated fund.

that from and after the tenth day of October, one thousand eight hundred and fifty-two, there shall be issued and paid and payable out of and charged and chargeable upon the consolidated fund of the United Kingdom, after paying or reserving sufficient to pay all such sums of money as by any acts of parliament now in force have been directed to be paid thereout, but with precedence to all other payments which shall hereafter be charged thereupon, the annual salaries hereinafter mentioned; that is to say, to the Lord Chancellor such yearly sum as, with the salary or sum payable to him as Speaker of the House of Lords, to be certified as directed by the act of the session holden in the fourteenth and fifteenth years of the reign of her present Majesty, chapter eighty-three, shall be sufficient to make up the net yearly sum of ten thousand pounds; to each of the Lords Justices of the Court of Appeal in Chancery, six thousand pounds; to the Vice-Chancellor for the time being appointed under the act passed in the fifth year of the reign of her present Majesty, session one, chapter five, five thousand pounds; and to the Vice-Chancellor appointed under the act of the session holden in the fourteenth and fifteenth years of the reign of her present Majesty, chapter four, five thousand pounds; all which salaries shall be in lieu of all salaries theretofore payable to such judges respectively, out of any fund whatsoever, under any acts or act of parliament now in force, and shall be payable and paid quarterly, free and clear from all taxes and deductions whatsoever, on the four usual days of payment in the year; that is to say, the fifth day of January, the fifth day of April, the fifth day of July, and the tenth day of October, in every year, by equal portions, the first payment to be made on the fifth day of January, one thousand eight hundred and fifty-three, and a proportionate part of such salaries respectively to be paid for the quarter current at the death or resignation of any of the persons in the receipt of such salaries.

Repeal of  
sect. 61 of  
5 Vict. c. 5.

17. So much of the act of the first session holden in the fifth year of the reign of her present Majesty, chapter five, as enacts that the accountant-general of the High Court of Chancery shall, on or before the first day of September in every year, pay into the Bank, to an account, intituled "An Account of Interest arising from Securities carried to an Account of Money placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," the sum of one hundred and fifty pounds, shall be repealed.

Brokerage  
heretofore re-  
ceived by

18. From and after the twenty-eighth day of October, one thousand eight hundred and fifty-two, the brokerage

which shall or may from time to time be received by the present accountant-general of the Court of Chancery shall be paid by him into the Bank of England, to be there placed to his credit as such accountant-general to the account, intituled "The Suitors' Fee Fund Account," at such times and under such regulations as the Lord Chancellor shall from time to time by any order direct.

accountant-general to be paid by him into suitors' fee fund.

19. From and after the twenty-eighth day of October, one thousand eight hundred and fifty-two, there shall be paid to the present accountant-general of the Court of Chancery, in lieu of the brokerage heretofore received by him for his own benefit, and in addition to the salary and allowance for books and stationery now received by him as accountant-general, the net yearly salary of two thousand seven hundred pounds.

Salary to be paid to present accountant-general in lieu of brokerage.

20. Nothing herein contained shall affect the rights, privileges or duties to which the present accountant-general is entitled or which he is liable to perform as one of the Masters in Ordinary of the Court of Chancery.

Nothing in act to affect the rights as a Master in Ordinary.

21. It shall be lawful for the commissioners of her Majesty's Treasury to make such regulations with respect to the broker to be employed in transacting the business relating to the funds of the Court of Chancery, and the amount of commission to be received by such broker, or the payment of such broker by salary or otherwise, as they shall from time to time think fit.

Power to Treasury to make regulations as to brokerage.

22. From and after the resignation or death of the present accountant-general the salary provided for the accountant-general of the said court by the act of the session holden in the twelfth year of the reign of King George the Second, chapter twenty-four, and the act of the session holden in the ninth year of the reign of King George the Third, chapter nineteen, shall cease, and there shall be paid to the accountant-general of the said court for the time being the net yearly salary of three thousand pounds.

Salary of all future accountants-general to be 3,000*l.* per annum.

23. From and after the twenty-eighth day of October, one thousand eight hundred and fifty-two, the following officers shall be removed, and their respective offices shall cease and determine; that is to say, the keeper or clerk of her Majesty's hanaper, deputy clerk of the hanaper, the secretary of decrees and injunctions, one of the two gentlemen of the chamber attending the great seal, the chaff wax, the deputy chaff wax, the sealer, and the deputy sealer, and the duties theretofore performed by the secretary of decrees and injunctions shall thenceforth be performed by the clerks of records and writs, and the respective duties of the offices

Certain officers of Lord Chancellor removed, and their offices abolished.

of the keeper or clerk of her Majesty's hanaper and of chaff wax and sealer shall thenceforth be performed by the clerk of the crown in chancery and the pursebearer to the Lord Chancellor respectively, as directed by the act of the session holden in the third and fourth years of the reign of King William the Fourth, chapter eighty-four, upon such offices becoming vacant, by the death, resignation, or removal of the then respective holders thereof, and such pursebearer shall be thenceforth entitled to such yearly sums for the expenses of the offices of chaff wax and sealer as are by the said last-mentioned act directed to be paid to him.

Certain officers of the Lord Chancellor to be paid by salary in lieu of fees.

24. From and after the twenty-eighth day of October, one thousand eight hundred and fifty-two, there shall be paid to the officers of the Lord Chancellor next hereinafter named, in lieu of all fees heretofore received by them respectively for their own use, the following yearly salaries; that is to say, to the principal secretary of the Lord Chancellor one thousand two hundred pounds, to the gentleman of the chamber attending the great seal five hundred pounds, to the pursebearer to the Lord Chancellor five hundred pounds, and to the trainbearer to the Lord Chancellor two hundred pounds; and it shall be lawful for the Lord Chancellor to appoint a clerk to be employed in the office of such principal secretary, which clerk shall receive by way of salary such annual sum, not exceeding two hundred pounds, as the Lord Chancellor shall from time to time direct.

The secretary of presentations and the secretary of commissions of the peace to account for and pay fees into consolidated fund.

25. From and after the tenth day of October, one thousand eight hundred and fifty-two, the persons or person holding the offices of secretary of presentations and secretary of commissions of the peace shall account for all the fees and emoluments payable to and received by them or him by virtue of such offices, and shall pay such fees and emoluments once in every six months into the receipt of her Majesty's exchequer, and the same, when so paid, shall be carried to and made part of the consolidated fund of the united kingdom, the amount so received and paid to be verified by the affidavit of the accounting party.

The persons or person holding such last-mentioned offices to receive the yearly sum of 800*l*.

26. From and after the tenth day of October, one thousand eight hundred and fifty-two, there shall be paid to the persons or person for the time being holding such last-mentioned offices the yearly sum of eight hundred pounds, to be divided between such persons, in case such offices should be held by different persons, in such proportions as the Lord Chancellor shall direct, and such yearly sum shall be issued and paid and payable out of and be charged and chargeable upon the consolidated fund of the united kingdom (after

paying or reserving sufficient to pay all such sums of money as by any acts of parliament now in force have been directed to be paid thereout, but with precedence to all other payments which shall hereafter be charged thereupon), and shall be payable and paid quarterly, free and clear from all taxes and deductions whatsoever, on the four usual days of payment in the year; that is to say, the fifth day of January, the fifth day of April, the fifth day of July, and the tenth day of October in every year, by equal portions, the first payment to be made on the fifth day of January, one thousand eight hundred and fifty-three, and a proportionate part thereof to be paid for the quarter current at the death or resignation of the persons or person in the receipt of such yearly sum.

27. From and after the twenty-eighth day of October, one thousand eight hundred and fifty-two, the offices of the patentee of the subpoena office, the deputy of the patentee of the subpoena office, the clerk of affidavits, the assistant clerk of affidavits, the second assistant clerk of affidavits, the clerk of reports, the doorkeeper of the Court of Chancery, and the crier of the Court of Chancery, and the office of usher of the Court of Chancery now held by Thomas Francis Le Dieu, shall be abolished. Certain offices abolished.

28. From and after the twenty-eighth day of October, one thousand eight hundred and fifty-two, the execution of the duties of the subpoena office shall be transferred to the clerks of records and writs, and such duties shall be performed by them in such manner as they are directed to perform the same by the act of the session holden in the eighth and ninth years of the reign of her present Majesty, chapter one hundred and five, after the death, resignation, or removal from his office of the present patentee of the subpoena office. Duties of subpoena office transferred to clerk of records and writs.

29. From and after the twenty-eighth day of October, one thousand eight hundred and fifty-two, the duties of the affidavit office of the Court of Chancery shall be performed by the clerks of records and writs, but affidavits or affirmations may be sworn, affirmed, or attested upon honour and declarations made before the clerk of inrolments for the time being, as occasion may require, for the better despatch of business; and the duties of the clerk of reports shall be performed by such person or persons as the Lord Chancellor shall appoint for that purpose, and such person or persons shall be entitled under this act to such salary or salaries as the commissioners of her Majesty's Treasury shall by any order direct, provided that the whole amount of such salaries Duties of affidavit office to be performed by clerks of records and writs.



shall not in any one year exceed the sum of four hundred pounds.

Orders in lunacy, when drawn up and signed, to be entered by the registrar in lunacy, and office copies of such orders to be furnished and signed by him, and the accountant-general to act upon such orders.

30. Every order made in matters in lunacy by the Lord Chancellor, or the person or persons intrusted as aforesaid, when drawn up by the secretary of lunatics, and signed by the Lord Chancellor, or the persons or person intrusted as aforesaid, shall be entered by such secretary, who shall be henceforth called the registrar in lunacy, in a proper book to be provided by him for that purpose; and he shall furnish to every person requiring the same office copies of such orders, or of such part thereof as may be required, which copies shall be signed by such registrar in lunacy, and he shall provide a seal for his office, and shall cause to be sealed or stamped therewith all such office copies as aforesaid; and every such office copy, purporting to be so signed, and sealed or stamped with such seal, shall at all times, and on behalf of all persons, and whether for the purposes of this act or otherwise, be admitted as evidence of the order of which it purports to be a copy, without any further proof thereof.

Orders in lunacy in certain cases to be acted upon in the same manner as if drawn up by the registrar of the Court of Chancery.

31. Where any such order in lunacy relates to the payment, transfer, or carrying over of any cash, stocks, funds, annuities, securities, or other effects, to or into the name of the Accountant-General of the Court of Chancery, to the credit of the matter of any person or persons being idiot, lunatic, or of unsound mind, or to the payment, transfer, or carrying over, or other disposal by the said Accountant-General of any cash, stocks, funds, annuities, securities, or other effects which may be standing in his name to the credit of the matter of any person or persons being idiot, lunatic, or of unsound mind, the said Accountant-General, and all other persons, including the Governor and Company of the Bank of England, and all other companies and societies, shall act upon such order, signed by the Lord Chancellor, or the persons or person intrusted as aforesaid, after the same shall have been so entered as aforesaid, in the same manner as if such order had been also drawn up by the registrar of the Court of Chancery, and passed and entered according to the mode heretofore in force; and the registrar in lunacy shall certify under his hand to the said Accountant General what stocks or funds he is by virtue of any such order to transfer, and to whom, in the same manner as the registrars of the Court of Chancery have been heretofore accustomed to do.

Certificates and reports of Masters in lunacy to be

32. It shall not be necessary hereafter to file any certificate or report of the Masters in lunacy in the report office of the Court of Chancery, but the said Accountant-General,

and all other persons including as aforesaid, shall act upon all certificates and reports of the Masters in lunacy, filed in the office of the registrar in lunacy, in the same manner as if such certificates and reports respectively had been also filed in the report office of the Court of Chancery according to the mode heretofore in force.

only filed in the office of registrar in lunacy.

33. If any person shall forge the signature of the registrar in lunacy, or shall forge or counterfeit the seal of his office, or knowingly concur in using any such forged or counterfeit signature or seal, or shall tender in evidence any document with a false or counterfeit signature of such registrar, or with a false or counterfeit seal, knowing the same signature or seal to be false or counterfeit, every such person shall be guilty of felony, and shall be liable to the same punishment as any offender under an act of the session holden in the eighth and ninth years of the reign of her present Majesty, chapter one hundred and thirteen.

Forging the signature of registrar of lunacy, or of his seal, to be felony.

34. And whereas all notes and cheques for the payment of money drawn by the Accountant-General of the Court of Chancery upon the Bank of England have been heretofore countersigned by the registrars of the said court, in pursuance of the provisions of the act of the session holden in the twelfth year of the reign of King George the First, chapter thirty-two: And whereas all copies and extracts taken from the registrar's books deposited in the office of the Master of the reports and entries have been heretofore signed by the said registrars: And whereas the performance of such duties by the said registrars is attended with inconvenience, and interrupts them in the execution of their other duties; and it is expedient that the Master of reports and entries should be empowered to sign such documents as well as the said registrars: be it therefore enacted, that the duties relating to the countersigning the notes or cheques drawn by the Accountant-General of the said court upon the Bank of England, and to the signing the copies and extracts made in or issuing from the office of the Master of reports and entries, heretofore performed by the registrars of the said court, so far as it shall be found necessary or expedient to continue such duties, shall be performed by the Master of reports and entries, or the registrars of the said court, in such manner and under such rules and regulations as the Lord Chancellor shall from time to time by any order direct.

Master of reports and entries to countersign cheques, &c.

35. The master of reports and entries shall also perform all such other duties as the Lord Chancellor shall from time to time by any order direct.

To perform other duties as Lord Chancellor may direct.

Accounts of monies of the suitors of the court kept at the report office to be discontinued, and offices of clerks of accounts abolished.

36. And whereas under an order of the said court recited in the said last-mentioned act, and thereby confirmed, an account of all monies, securities, and effects belonging to the suitors of the said court was directed to be kept at the report office; and whereas, since the passing of such act, three accounts of such monies, securities, and effects have been respectively kept, that is to say, one at the report office by the clerks of accounts, another in the office of the accountant-general of the said court, and a third at the Bank of England: And whereas it is considered that the account so kept at the report office is no longer necessary, and may be discontinued: Be it therefore enacted, that from and after the first day of October, one thousand eight hundred and fifty-two, the account so kept at the report office as aforesaid shall be discontinued, and the offices of clerks of accounts shall be abolished, and so much of the said last-mentioned order as requires, that when any money belonging to the suitors of the said court should be directed to be paid by order of the said court the note drawn for such money upon cheque paper, as thereby directed, should be carried to the report office, and an entry made thereof there, and intratur written thereon, shall be repealed; and from and after the first day of October, one thousand eight hundred and fifty-two, every note or cheque for the payment of money, under any order of the said court, signed by the accountant-general of the said court, and countersigned by the master of reports and entries, or one of the registrars of the said court, as hereinbefore required, shall be sufficient authority to the Bank of England to pay the money mentioned in such note or cheque to the person named therein, or to such person as he or she, by indorsement, shall order to receive the same.

Lord Chancellor to make general orders for carrying act into effect.

37. It shall be lawful for the Lord Chancellor from time to time to make and issue such general orders as he shall think fit, as well in relation to any matter connected with the offices by this act abolished, and not hereby otherwise provided for, as for carrying the provisions of this act into execution, and also all such other rules and orders as he shall think fit for altering and regulating the business of the several offices of the said court.

Orders under this act may be varied.

38. Any order or orders for the time being made under this act may from time to time be annulled, altered, or varied by the like authority by which any such order or orders shall have been made, and new orders may from time to time be made for any of the purposes of this act by the authority by which orders are hereby authorized to be made.

39. It shall be lawful for the Lord Chancellor, if he shall see fit, to authorize and direct the first, second, and third clerks in each division of the office of the said accountant-general, from and after the twenty-eighth day of October, one thousand eight hundred and fifty-two, to continue to perform the acts or duties hitherto performed by such clerks in addition to the duties prescribed by act of parliament, as heretofore, in exclusion of any other person, and to direct them to be paid such yearly salaries as the Lord Chancellor, with the consent of the Commissioners of her Majesty's Treasury, shall think just; and it shall be lawful for the Lord Chancellor to fix the fees to be paid for such acts as aforesaid, which shall be accounted for in like manner as the other fees now received in the office of the said accountant-general.

Duties and salaries of clerks in accountant-general's office.

40. Instead of the salaries directed to be paid by the act of the session holden in the fifth and sixth years of the reign of her present Majesty, chapter one hundred and three, to the clerks of the taxing masters of the Court of Chancery, every such clerk shall, from and after the third day of November, one thousand eight hundred and fifty-two, be entitled to a salary of three hundred and fifty pounds per annum.

Amount of salaries to clerk of taxing masters.

41. The deposit now payable on setting down appeals and exceptions for hearing shall continue to be payable, and such deposits shall be paid to and received by the senior registrar of the Court of Chancery for the time being, who shall once in every three months pay all sums so received by him into the Bank of England to the credit of the accountant-general of the said court (the amount so received and paid by such registrar to be verified by affidavit), and the several sums when so paid in shall be from time to time placed to an account to be intituled "The Appeal Deposit Account," and the monies which shall from time to time be standing to such account shall be paid and applied as the Court of Chancery shall from time to time in that behalf order or direct.

Deposits on appeals to be paid into bank, and placed to "The Appeal Deposit Account."

42. And whereas by the act of the session holden in the eighth and ninth years of the reign of her present Majesty, chapter fifteen, a certain duty of excise is imposed upon every licence to be taken out by every person exercising or carrying on the trade or business of an auctioneer in any part of the united kingdom; and it is thereby enacted, that every person who exercises or carries on the business of an auctioneer, or who acts in such capacity at any sale or roup, and every person who sells or offers for sale any goods or

Persons may sell by auction, under an order of the Court of Chancery, without being liable to duty imposed by 8 & 9 Vict. c. 15.

chattels, lands, tenements, or hereditaments, or any interest therein, at any sale or roup where any person or persons become the purchaser of the same by competition, and being the highest bidder, or by any other mode of sale by competition, shall, except as hereinafter mentioned, be deemed to carry on the trade or business of an auctioneer, and shall be required to take out such licence as thereby directed; and that every person who carries on the trade or business of an auctioneer as aforesaid without taking out such licence shall, except as hereinafter mentioned, forfeit one hundred pounds: And whereas doubts have arisen whether any sale or sales by way of auction can now be made under any order or decree of the Court of Chancery before any officer of the said court, or the persons by such officer in that behalf appointed, without rendering such officer or other person liable to take out such licence as by the said last-mentioned act is directed to be taken out by all persons acting as auctioneers; and it is expedient that such doubts should be removed: Be it therefore enacted, that it shall be lawful for any Master in Ordinary of the Court of Chancery, and for the chief clerk of any such Master, and for every other person appointed in that behalf by any such Master, to sell any goods or chattels, lands, tenements, or hereditaments, or any interests therein, under any decree or order of the said court, by auction or by any other mode of sale by competition, without any licence as an auctioneer, and without being liable to the duty imposed by the said last-mentioned act, or any other act or acts now in force.

Indemnity in respect of former sales.

43. The Masters in Ordinary of the Court of Chancery and their chief clerks shall be discharged and freed from all suits, prosecutions, liabilities, pains, and penalties to which they or any or either of them are or is or might be liable for or on account of any sale by or by way of auction or competition heretofore made or conducted by or before them or any or either of them.

Officers whose emoluments are diminished in consequence of this act may make claim for compensation to Commissioners of Treasury.

44. It shall be lawful for the keeper or clerk of her Majesty's hanaper, deputy clerk of the hanaper, the patentee of the subpoena office, and for every officer of the Court of Chancery, and for every officer or person employed in the offices of the masters in lunacy, or the registrar in lunacy, whose salary or emoluments shall be taken away or diminished by the operation of this act, or by the rules and orders to be made thereunder, to make a claim for compensation to the Commissioners of her Majesty's Treasury for the time being, and such commissioners are hereby required, within the space of six calendar months after any such claim

shall have been made, by examination upon oath or otherwise (which oath they and each of them are and is hereby authorized to administer), to inquire whether any and if any what compensation ought to be made to such clerk of the hanaper, deputy clerk of the hanaper, patentee of the subpoena office, and to any officer or person claiming such compensation, the said commissioners having regard to the conditions on which the appointment of any such officer or person was made, or to any notice which at the time of such appointment may have been given to such officer or person that his office was to be holden subject to any provision by parliament for the abolition or regulation thereof, but with full power for the said commissioners to investigate and determine whether from the nature of the office or mode of accession thereto any such conditions or notice could have been properly made or given, and also having regard to the holding of any office, place, or situation in the said court by such officer or person; and in all cases in which it shall appear to the said commissioners that compensation ought to be granted, it shall be lawful for the said commissioners, by warrant under their hands, to order and direct that such annual compensation shall be made to the persons so claiming such compensation as aforesaid, or any of them, as to the said commissioners in their discretion shall seem just and reasonable; and all such compensation shall be paid and payable out of such funds and in such manner as is hereinafter in that behalf directed: Provided always, that an account of all such compensations shall, within fourteen days next after the same shall be so granted, be laid upon the table of the House of Commons, if parliament shall be then assembled, or if parliament shall not be then assembled then within fourteen days after the meeting of parliament then next following.

45. Every person now holding any freehold office or office for life or during good behaviour which is abolished by this act, and in respect of which any annual or other fixed salary is by virtue of any act of parliament or otherwise by law payable, shall be entitled to receive such salary during the residue of the term of his natural life, in the same manner and out of the same fund as if this act had not been passed; and every person now holding any freehold office or office for life or during good behaviour, which is abolished by this act, and in respect of which any fees of office are by law or custom payable, shall be entitled to receive from and after the passing of this act, during his natural life, an annuity equal to the average annual amount

Payments to  
be made to  
persons  
whose offices  
are abolished.

of such fees of office during the three years next preceding the passing of this act; and the amount of such annuity shall be determined by the Lords Commissioners of her Majesty's Treasury, in the same manner, and shall be paid out of such funds and in such manner, as is by this act directed with respect to the compensation hereby provided to be given to officers whose salary or emoluments shall be taken away or diminished by the operation of this act, or by the rules and orders to be thereunder made.

Lord Chan-  
cellor may  
order pen-  
sions for re-  
tiring officers.

46. From and after the passing of this act it shall be lawful for the Lord Chancellor, by any order made on a petition presented to him for that purpose, to order (if he shall think fit) to be paid to any person now or hereafter holding any office or appointment in the Court of Chancery, other than and except any clerk of enrolments, clerk of records and writs, or taxing master, to whom, subsequently to the passing of this act, the Lord Chancellor, under the act passed in the session of parliament holden in the fifth and sixth years of her Majesty's reign, intituled "An Act for abolishing certain Offices of the High Court of Chancery," shall have ordered a retiring allowance to be paid, and to any officer or person employed in the offices of the Masters in Lunacy, or the Registrar in Lunacy, who shall be afflicted with some permanent infirmity disabling him from the due execution of his office, or shall have continued in any office or offices for twenty years and shall be desirous of resigning the same, a superannuation allowance under this act, and thereupon such officer or person shall be entitled to receive such superannuation allowance as the commissioners of her Majesty's treasury shall think proper or direct; and in ascertaining and awarding the amount of such superannuation allowance, the said commissioners shall take into consideration the whole period during which any such officer or person shall have been permanently employed in any office or situation in the said courts or offices, and shall proceed according to the principles laid down by an act passed in the session holden in the fourth and fifth years of King William the Fourth, chapter twenty-four, "to alter, amend and consolidate the Laws for regulating the Pensions, Compensations and allowances to be made to Persons in respect of their having held Civil Offices in his Majesty's Service:" provided always, that the Lord Chancellor shall in every such order state the cause for making the same, and shall cause a copy of such order to be laid on the table of the House of Commons within fourteen days next after the making of the same if parliament shall be

5 & 6 Vict.  
c. 103.

4 & 5 Will. 4,  
c. 24.

then assembled, and if parliament shall not be then sitting then within fourteen days next after the assembling thereof.

47. From and after the passing of this act, it shall be lawful for the Lord Chancellor, by order, to remove any officer of the Court of Chancery, or any officer or person employed in the offices of the Masters in Lunacy, or the Registrar in Lunacy, who shall be afflicted with any infirmity which shall disable him from the due execution of his office, and who shall refuse to resign, or become incapable of resigning the same, and upon such removal to order to be paid to any such officer or person so removed an annuity or retiring allowance, not exceeding two-third parts of the yearly sum or salary to which he shall be entitled at the time of his removal, such annuity or retiring allowance to be paid out of the funds, and in the manner in which retiring allowances under this act are hereinafter directed to be paid.

Lord Chancellor may remove and give pensions to disabled officers.

48. Except as herein otherwise provided, all salaries under this act shall grow due from day to day, but shall be payable under an order of the Lord Chancellor on the third day of February, the third day of May, the third day of August, and the third day of November in every year, or on such other days as the Lord Chancellor shall from time to time by any order direct, and shall be paid to the parties entitled thereto, or their respective executors or administrators, out of the fund standing in the name of the Accountant-General of the Court of Chancery, to the account, intituled "The Suitors' Fee Fund Account," but subject and without prejudice to the payment of all salaries and other sums of money by any former act or acts now in force directed or authorized to be paid thereout.

Salaries to grow due from day to day, but to be payable quarterly out of suitors' fee fund.

49. The compensation to be made under this act to the persons holding the offices of the keeper or clerk of her Majesty's hanaper, deputy clerk of the hanaper, chaff wax, deputy chaff wax, sealer and deputy sealer, shall be issued and payable out of and charged and chargeable upon the consolidated fund of the United Kingdom, after paying or reserving sufficient to pay all such sums of money as by any acts of parliament now in force have been directed to be paid thereout, but with precedence to all other payments which shall hereafter be charged thereupon, and such compensations shall be paid quarterly, free and clear from all taxes and deductions whatsoever, on the four usual quarterly days of payments in the year; that is to say, the fifth day of January, the fifth day of April, the fifth day of July, and the tenth day of October in every year by equal portions, the

Compensation to chaff wax, &c. to be paid out of consolidated fund.



first payment to be computed from the twenty-eighth day of October, one thousand eight hundred and fifty-two, to be made on such of the same days of payment as shall happen next after the commissioners of her Majesty's treasury shall have issued their warrant for any such compensation, and a proportionate part thereof to be paid for the quarter current at the death of any of the persons in the receipt of such compensation.

All other compensations and superannuation or retiring allowance to grow due from day to day, but to be payable quarterly out of suitors' fund.

50. Except as herein otherwise provided, all compensations and superannuation or retiring allowances under this act shall grow due from day to day, but shall be payable on the third day of February, the third day of May, the third day of August, and the third day of November in every year, or on such other days as the Lord Chancellor shall from time to time by any order direct, and shall be paid to the parties entitled thereto, or their respective executors or administrators, out of the interest and dividends of the government or parliamentary securities now or hereafter to be placed in the name of the Accountant-General of the Court of Chancery to the two accounts, intituled "Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," and "Account of Securities purchased with surplus Interest arising from Securities carried to an Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," or either of them, by the Governor and Company of the Bank of England, by virtue of any order or orders of the Lord Chancellor, to be made from time to time for that purpose, without any draft from the Accountant-General, but subject and without prejudice to the payment of all salaries and other sums of money by any former act or acts now in force directed or authorized to be paid thereout.

Alteration of quarterly days of payment of certain salaries of suitors' fee fund.

51. All salaries payable under any act or acts now in force out of the fund standing in the name of the Accountant-General of the Court of Chancery to the account intituled "The Suitors Fee Fund Account," by equal quarterly payments on the twenty-fifth day of February, the twenty-fifth day of May, the twenty-fifth day of August, and the twenty-fifth day of November in every year, shall, from and after the passing of this act, be respectively payable and paid by equal quarterly payments on the third day of February, the third day of May, the third day of August, and the third day of November in every year, and a proportionate part of the first of such last-mentioned quarterly payments, to be computed from the last day of payment of such salaries,

shall be made on the first of such quarterly days of payment hereby appointed which shall happen next after the passing of this act, and upon the resignation, death, or removal from office of any person entitled to receive any such salary, such person, or his executors or administrators, as the case may be, shall be paid such proportionate part of the salary aforesaid as shall have accrued since the last quarterly payment thereof to the time of such resignation, death or removal from office.

52. It shall be lawful for the Lord Chancellor by any order or orders to be from time to time made for that purpose, to order payment, at such times, and in such manner, and out of such of the funds hereby charged as he shall think fit, of all such sums as shall appear to him to be reasonable and proper to be paid for providing suitable courts, rooms and buildings in which the business of the Court of Chancery may from time to time be carried on, and for keeping order in the several courts, and for the care and cleaning of all such courts, rooms and buildings, and for the rent, taxes, rates, insurance from fire, and other outgoings charged upon or payable for or in respect thereof, and for the enlargement, alteration or improvement, repairs, furnishing, and fitting up of the same, and for the books and stationery which may be required for the business of the said court and the offices thereof, and for the making, writing, printing, counting and examining official documents and records of the said court, and office and other copies of such documents and records, and for coals and candles, and other necessary articles for the said courts and offices, and for all other necessary expenses relating thereto, and for the expenses of the purse-bearer and the running porter to the great seal, and the messenger to the Lord Chancellor during his absence from town, and for the petty expenses now borne by the porter's fund; and it shall be lawful for the Master of the Rolls to appoint a clerk or clerks to be employed in the office of the secretary at the Rolls, which clerk or clerks shall receive by way of salary such annual sum or sums as the Master of the Rolls shall from time to time fix and determine; provided always, that such annual sum or sums shall not in the whole in any one year exceed the sum of three hundred pounds.

53. And whereas many of the fees payable to the suitors' fee fund have been lately abolished, and several of them have been reduced, and under the provisions of this act there will be a further reduction of the fees payable to the said fund: and whereas, in order to effect such reduction, and at

Provisions for expenses of the officers of the court.

Surplus of suitors' fund to be from time to time carried over to and to become part of

suitors' fee  
fund.

the same time to keep up the said fund to an amount sufficient to satisfy the charges thereon, as well under this act as under any former act, it is expedient to make such addition to the said fund as hereinafter provided: be it therefore enacted, that so much of any act or acts now in force as directs that the surplus interest and annual produce which hath arisen and shall arise from the monies placed out on the several accounts, intituled "Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," and "Account of Securities purchased with surplus Interest arising from Securities carried to an Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," beyond what shall be sufficient to answer the purposes of the several acts relating to such securities, and also the interest produced from the securities purchased with such surplus interest and annual produce, shall from time to time be placed out in the purchase of government or parliamentary securities in the name of the accountant-general of the said court, and placed to the credit of the said account, intituled "Account of Securities purchased with surplus Interest arising from Securities carried to an Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," shall be repealed, and the surplus interest and annual produce hereafter to arise from the monies placed out on the two several last-mentioned accounts, beyond what shall be sufficient to answer the purposes of this act, and the several other acts relating to such securities, shall be carried over by the said accountant-general and be placed to the said account, intituled "The Suitors' Fee Fund Account," and shall thereupon become part of the fund standing to such account.

Provisions in  
case of sur-  
plus or defi-  
ciency of  
suitors' fee  
fund.

54. If at the end of any year there shall be a surplus standing to the credit of the said account, intituled "The Suitors' Fee Fund Account," after payment of the several salaries and sums of money charged thereon by this act or any former act, it shall be lawful for the Lord Chancellor by any order to direct that such surplus, or such part thereof as to the Lord Chancellor shall seem fit, shall be invested in the purchase of parliamentary or government securities in the name of the said accountant-general, to be placed to the account, intituled "Account of Monies placed out to provide for the Officers of the High Court of Chancery," and it shall be lawful for the Lord Chancellor in like manner to direct the investment of the dividends or interest to accrue from time to time on the securities now or at any time hereafter

under this act or any former act to be placed to the said last-mentioned account, or so much of such dividends and interest as he shall think fit, in the purchase of parliamentary or government securities in the name of the said accountant general, to be by him placed to the credit of the said last-mentioned account; and as often as there shall be a deficiency in the said account, intituled "The Suitors' Fee Fund Account," at any of the times appointed for payment of any of the salaries or sums of money charged thereon, it shall be lawful for the Lord Chancellor to direct the said accountant general to make good such deficiency by carrying over and placing to the said account, intituled "The Suitors' Fee Fund Account," such sum as the Lord Chancellor may consider sufficient for that purpose, out of the interest and dividends to arise from the government or parliamentary securities standing to the said account, intituled "Account of Monies placed out to provide for the Officers of the High Court of Chancery," or by a sale of so much of the said securities as may be necessary for that purpose.

55. In the construction of this act, unless such meaning be repugnant to or inconsistent with the context, the expression "Lord Chancellor" shall mean and include the Lord High Chancellor of Great Britain, and the Lord Keeper or Lords Commissioners of the Great Seal of the United Kingdom for the time being.

Interpretation of term  
"Lord Chancellor."

## NEW ORDERS IN THE COURT OF CHANCERY.

MASTERS OF REPORTS AND ENTRIES COUNTERSIGNING CHEQUES  
OF ACCOUNTANT-GENERAL.

27th July, 1852.

I, THE Right Honourable Edward Burtenshaw Lord St. Leonards, Lord High Chancellor of Great Britain, do hereby, in pursuance of an Act of Parliament passed in the sixteenth year of the reign of her present Majesty, intituled "An Act for the Relief of the Suitors of the High Court of Chancery," and in pursuance of all other powers enabling me in that behalf, order and direct,

That the copies or extracts made in or issuing from the Office of the Master of Reports and Entries, and certificates of no cause shown, shall be signed by him alone, save that when he shall be prevented from signing the same by absence or some unavoidable or reasonable ground, the same shall be signed by the Registrar who shall be employed in countersigning as next hereinafter mentioned.

That until further order, the duty of countersigning the notes or cheques drawn by the Accountant-General of the said Court upon the Bank of England shall be discharged as nearly as conveniently may be during three days in each week by the Master of Reports and Entries, and during the other three days in each week by some one of the Registrars, in such order and rotation as shall be agreed upon by and between the Registrars and the Master of Reports and Entries, or the majority of them.

Provided that such notes or cheques shall be equally valid and available to all intents and purposes whether signed by the Master of Reports or by any one of the Registrars.

(Signed) ST. LEONARDS, C.

---

### PAYMENTS TO SURVIVING REPRESENTATIVES.

28th July, 1852.

THE Right Honourable Edward Burtenshaw Lord St. Leonards, Lord High Chancellor of Great Britain, doth hereby order and direct in manner following, that is to say:—

That in any case in which the Accountant-General shall have been directed to pay to parties to be named in the Master's Report, and the Master shall have reported a sum as due to any persons as personal representatives, the Accountant-General shall be at liberty to pay to the survivors or survivor of them.

(Signed) ST. LEONARDS, C.

## ORDER OF COURT.

*The 7th day of August, 1852.*

THE Right Honourable Edward Burtenshaw Lord St. Leonards, Lord High Chancellor of Great Britain, by and with the advice and assistance of the Right Honourable Sir John Romilly, Master of the Rolls, the Right Honourable the Lord Justice Sir James Lewis Knight Bruce, the Right Honourable the Lord Justice Lord Cranworth, the Right Honourable the Vice-Chancellor Sir George James Turner, the Honourable the Vice-Chancellor Sir Richard Torin Kindersley, and the Honourable the Vice-Chancellor Sir James Parker, doth hereby, in pursuance and execution of all powers enabling him in that behalf, order and direct:—

That all and every the Orders, Rules, and Directions hereinafter set forth shall henceforth be, and for all purposes be deemed and taken to be, General Orders and Rules of the High Court of Chancery, viz. :

I. That no appeal from any Decree, Order, or Dismission, or any re-hearing of the case on which such Decree, Order or Dismission is founded, shall be allowed, unless the same is set down for hearing, and the requisite notice thereof duly served, within five years from the date of any such Decree, Order, or Dismission respectively.

II. That all Decrees and Orders, and all Dismissions, pronounced or made in any cause, claim or matter in this Court which shall be enrolled, shall be so enrolled within six calendar months after the same shall be so pronounced or made respectively, and not at any time after without special leave of the Court, such leave to be obtained in manner next hereinafter mentioned.

III. In case any party is desirous to enrol a Decree, or Order, or Dismission after the expiration of six calendar months from the time the same shall have been made, he shall obtain an Order for that purpose, and which Order, unless made by consent of the adverse party, or on motion and notice to all the parties, shall be a conditional Order in the first instance, but shall become absolute without further Order, unless cause is shown against it within twenty-eight days after service of the Order.

IV. That where a caveat is entered with the proper Officer to stay the signing of the Docket of the Enrolment of any Decree, Order, or Dismission, such caveat shall be prosecuted with effect within twenty-eight days after the Docket of such Decree, Order, or Dismission shall be left to be signed with the proper Officer by the party who entered the same, otherwise such caveat shall be of no force; and the Docket of such Decree, Order, or Dismission may immediately after the expiration of the said twenty-eight days be presented to be signed, as if no such caveat had been entered.

V. That no Enrolment of any Decree, Order, or Dismission shall be allowed after the expiration of five years from the date thereof.

VI. That the Lord Chancellor, either sitting alone, or with the Lords Justices, or either of them, shall be at liberty, where it shall appear to him under the peculiar circumstances of the case to be just and expedient, to enlarge the periods hereinbefore appointed for a Re-hearing or an Appeal, or for an Enrolment.

VII. That these Orders shall take effect on and from the twenty-eighth day of October next.

(Signed)

ST. LEONARDS, C.  
JOHN ROMILLY, M. R.  
J. L. KNIGHT BRUCE, L. J.  
CRANWORTH, L. J.  
G. J. TURNER, V. C.  
RICHARD T. KINDERSLEY, V. C.  
JAMES PARKER, V. C.

## ORDER OF COURT.

*Saturday, the 7th day of August, 1852.*

THE Right Honourable Edward Burtenshaw, Lord St. Leonards, Lord High Chancellor of Great Britain, by and with the advice and assistance of the Right Honourable Sir John Romilly, Master of the Rolls, the Right Honourable the Lord Justice Sir James Lewis Knight Bruce, the Right Honourable the Lord Justice Lord Cranworth, the Right Honourable the Vice-Chancellor Sir George James Turner, the Honourable the Vice-Chancellor Sir Richard Torin Kindersley, and the Honourable the Vice-Chancellor Sir James Parker, doth hereby, in pursuance of an Act of Parliament passed in the fifteenth and sixteenth

years of her present Majesty, intituled "An Act to amend the Practice and Course of Proceeding in the High Court of Chancery;" and in pursuance and execution of all other powers enabling him in that behalf, Order and Direct :—

That all and every the orders, rules, and directions hereinafter set forth shall henceforth be, and for all purposes be deemed and taken to be, General Orders and Rules of the High Court of Chancery;" viz.

*Printing.*

I. Bills and claims are to be printed on writing royal paper, quarto, in pica type, leaded; and the copy to be filed is to be interleaved with paper of the same description.

II. No costs are to be allowed, either as between party and party, or as between solicitor and client, for any written bill or written copy of a bill, filed under the 15 & 16 Vict. c. 86, s. 6, or for any written copy thereof, served upon any defendant thereto, or for any written brief of such bill, unless the Court shall, in disposing of the costs of the cause, direct the allowance thereof.

III. The Clerks of Records and Writs shall, at the expiration of fourteen days from the filing of any written bill or written copy of a bill, take off the files of the Court, without further order, the bill or copy so filed, unless a printed copy thereof shall in the mean time have been filed, and the plaintiff in the suit, or his solicitor, who shall personally have undertaken to file such printed copy, shall pay to the defendant all the costs incurred by him in the suit, such costs to be taxed by the Taxing Master, without further order, upon production to him of the certificate of the Clerk of Records and Writs, that a printed copy of the bill has not been filed pursuant to such undertaking, and to be recoverable in like manner as costs ordered to be paid by a party in a suit to another party in a suit are now recoverable.

IV. In lieu of the fees now payable to solicitors for instructions for bills, for engrossing bills and claims, for copies of bills and claims, for abbreviating bills and making a brief thereof, solicitors shall be entitled to charge, and be allowed in suits commenced after these Orders come into operation, the fees specified in Schedule (A.) to these Orders.

V. The payment to be made by the defendant to the plaintiff for printed copies of the bill or claim shall be at the rate of one half-penny per folio.

VI. No defendant shall be at liberty to demand from the plaintiff more than ten printed copies of his bill or claim.



*Amendment of Bills and Claims.*

VII. Where, according to the present practice of the Court, an amendment of a bill or claim may be made without a new engrossment thereof, a bill or claim may be amended by written alterations in the printed bill of complaint or claim so to be filed, and by additions on the paper to be interleaved therewith, according to the directions of Order I.

VIII. The practice of amending a defendant's copy of the bill shall, with respect to the amendment of bills filed after these Orders come into operation, be abolished.

IX. A copy of an amended bill or claim, whether upon an amendment by a reprint, or by such alterations and additions as mentioned in Order VII., is to be served upon the defendant or his solicitor; and such copy may be partly printed and partly written, if the amendment is not made by a reprint: but in every case the copy to be served is to be stamped with the proper stamp by one of the Clerks of Records and Writs, indicating the filing of such amended bill or claim, and the date of the filing thereof.

X. In all cases where, according to the present practice of the Court, a subpoena to appear to and to answer an amended bill may be served upon the solicitor of a defendant, service upon the defendant's solicitor of a copy of an amended bill, whether wholly printed, or partly printed and partly written, shall be good service on the defendant.

XI. Where a defendant has appeared in person to any bill, service at the address for service of such defendant of a copy of an amended bill, whether wholly printed, or partly printed and partly written, shall be good service on the defendant.

*Limitation of preceding Orders.*

XII. None of the preceding Orders shall apply to bills or claims filed before these Orders come into operation, though afterwards amended; and the existing practice of the Court is to continue in force, with reference to the amendment of such bills and claims.

XIII. The existing practice of the Court with reference to issuing and serving writs of subpoena to appear to and answer bills and writs of summons on claims is also to continue in force with respect to bills and claims filed before these Orders come into operation.

*Form of Bill.*

XIV. Bills may be in a form similar to the form set out in

Schedule (B.) to these Orders, with such variations as the nature and circumstances of each particular case may require.

*Interrogatories.*

XV. The interrogatories for the examination of the defendant to a bill may be in a form similar to the form set out in Schedule (C.) to these Orders, with such variations as the nature and circumstances of each particular case may require.

XVI. In cases in which the plaintiff requires an answer to any bill from any defendant or defendants thereto, the interrogatories for the examination of such defendant or defendants are to be filed within eight days after the time limited for the appearance of such defendant or defendants.

XVII. If the defendant appear in person, or by his own solicitor, within the time limited for that purpose by the rules of the Court, the plaintiff is, within eight days after the time allowed for such appearance, to deliver to the defendant or defendants so required to answer, or to his or their solicitor or solicitors, a copy of the interrogatories so filed as aforesaid, or of such of them as the particular defendant or defendants shall be required to answer. And the copy so to be delivered is to be examined with the original, and the number of folios counted by the Clerks of Records and Writs, who on finding that such copy is duly stamped and properly written are to mark the same as an office copy.

XVIII. If any defendant to a suit commenced by bill do not appear in person, or by his own solicitor, within the time allowed for that purpose by the rules of the Court, and the plaintiff has filed interrogatories for his examination, the plaintiff may deliver a copy of such interrogatories so examined and marked as aforesaid, to the defendant, at any time after the time allowed to such defendant to appear and before his appearance in person or by his own solicitor; or the plaintiff may deliver a copy of such interrogatories, so examined and marked as aforesaid, to the defendant or his solicitor, after the appearance of such defendant in person or by his own solicitor, but within eight days after such appearance.

XIX. A defendant required to answer a bill must put in his plea, answer, or demurrer thereto, not demurring alone, within fourteen days from the delivery to him or his solicitor of a copy of the interrogatories which he is required to answer; but the Court shall have full power to enlarge the time, from time to time, upon application being made to the Court for that purpose.

XX. After the time allowed by Order XVI. for filing inter-

rogatories for the examination of any defendant, no interrogatories are to be filed for the examination of such defendant, without special leave of the Court, to be applied for upon notice of motion.

*Form of Answer.*

XXI. Answers may be in a form similar to the form set out in Schedule (D.) to these Orders, with such variations as the nature and circumstances of each particular case may require.

*Motion for Decree.*

XXII. One month's notice is to be given by the plaintiff to the defendant or defendants, of the motion for a decree or decretal order.

XXIII. The affidavits to be used in support of such motion are to be filed before the service of such notice, and a list of such affidavits is to be set forth at the foot of such notice.

XXIV. The defendant, within fourteen days after service of such notice, is to file his affidavits in answer, and to furnish the plaintiff or his solicitor with a list thereof.

XXV. Within seven days after the expiration of such fourteen days the plaintiff is to file his affidavits in reply, which affidavits shall be confined to matters strictly in reply, and he is to furnish the defendant or his solicitor with a list thereof; and except so far as these affidavits are in reply, they are not to be regarded by the Court, unless upon the hearing of the motion the Court shall give leave to the defendant to answer them, and in that case the costs of such affidavits, and of the further affidavits consequent upon them, shall be paid by the plaintiff, unless the Court shall otherwise order.

XXVI. No further evidence on either side is to be used upon such motion for a decree or decretal order, without leave of the Court.

XXVII. Every notice of motion for a decree or decretal order is to be entered with the Registrar, who is to make out a list of such motions, and the same are to be heard according to such list, unless the Court shall make order to the contrary.

XXVIII. Where a defendant shall not have been required to answer and shall not have answered the plaintiff's bill, so that under the 15 & 16 Vict. c. 86, s. 26, he is to be considered as having traversed the case made by the bill, issue is nevertheless to be joined by filing a replication in the form or to the effect of the replication now in use.

*Dismissal for want of Prosecution.*

XXIX. A defendant to a suit commenced by bill, who shall not have been required to answer the bill, and shall not have answered the same, shall be at liberty to apply for an order to dismiss the bill for want of prosecution, at anytime after the expiration of three months from the time of his appearance, unless a motion for a decree or decretal order shall have been set down in the meantime, or the cause shall have been set down to be heard; and the Court may, upon such application, if it shall think fit, make an order dismissing the bill, or make such other order or impose such terms as may appear just and reasonable.

*Impertinence.*

XXX. The application to be made for the costs of any impertinent matter introduced into any bill, answer, or other proceeding, is to be made at the time when the Court disposes of the costs of the cause or matter, and not at any other time.

*Evidence.*

XXXI. The time within which the plaintiff in any suit commenced by bill is to give the defendant notice of the mode in which he desires that the evidence to be adduced in the cause shall be taken, is to be seven days after issue joined therein; and if the plaintiff shall not, within such time, give any such notice, or if the plaintiff shall give such notice, and shall therein desire the evidence to be adduced upon affidavit, the plaintiff and defendant respectively shall be at liberty to verify their respective cases by affidavit, unless the defendant, or some or one of the defendants if more than one, shall, within fourteen days after the expiration of the said period of seven days, give notice to the plaintiff, or his solicitor, that he or they desire the evidence to be oral.

XXXII. The evidence on both sides in any cause to be used at the hearing thereof, whether taken orally (and including the cross-examination and re-examination of any witness or witnesses) or taken upon affidavit, is to be closed within nine weeks after issue joined therein, except that any witness who has made an affidavit intended to be used by any party to such cause at the hearing thereof shall be subject to cross-examination within one month after the expiration of such period of nine weeks.

XXXIII. No affidavit filed before issue joined in any cause shall be received or receivable at the hearing thereof, unless within one month after issue joined notice in writing shall have

been given by the party intending to use the same, to the opposite party of his intention in that behalf.

XXXIV. Any party desiring to cross-examine a witness who has made an affidavit in any cause intended to be used at the hearing thereof, shall give forty-eight hours' notice to the party on whose behalf such affidavit was filed, or to the party intending to use the same, of the time and place of such intended cross-examination, in order that such party may, if he shall think fit, be present at such cross-examination.

XXXV. The re-examination of any such witness is immediately to follow his cross-examination, and is not to be delayed to a future period.

XXXVI. Any party in any cause or matter requiring the attendance of any witness before an examiner, for the purpose of his being examined or cross-examined, with a view to his evidence being used upon any claim, motion, petition, or other proceeding before the Court, not being the hearing of a cause, shall give to the opposite party or parties forty-eight hours' notice at least of his intention to examine such witness, and of the time and place of such examination, unless the Court shall in any case think fit to dispense with such notice.

XXXVII. And where it is desired to cross-examine any party, whether a party to the cause or matter or not, who has made an affidavit to be used, or which shall be used on any claim, motion, petition, or other proceeding before the Court, not being the hearing of a cause, the party desiring so to cross-examine such deponent shall give such notice to the opposite party as is required by Order XXXIV. with reference to the cross-examination of a witness who has made an affidavit to be used on the hearing of a cause.

XXXVIII. All the above Orders with reference to the examination, cross-examination, and re-examination of witnesses, shall extend and be applicable to evidence taken in any cause subsequently to the hearing thereof.

XXXIX. In suits in which issue shall have been joined when these Orders come into operation, the evidence to be used at the hearing of the cause shall be taken according to the existing practice of the Court, unless the parties shall consent, or the Court shall order, that the same shall be taken in the mode prescribed by the Act 15 & 16 Vict. c. 86, and these Orders.

*Adding to Decree.*

XL. The time within which a party served with notice of a decree under section 42 of the above Act may apply to the Court to add to the decree, is to be one month after such service.

XLI. A memorandum of the service upon any person or persons of notice of the decree in any suit under the said section, rule 8, is to be entered in the office of the Clerks of Records and Writs upon due proof by affidavit of such service.

*Summons.*

XLII. The summons to be obtained under section 45 of the above Act may be in a form similar to the form set forth in Schedule (E.) to these Orders, with such variations as the circumstances of the case may require.

*Revivor and Supplement.*

XLIII. Any party under no disability, or under the disability of coverture, who may be served with an order to revive any suit, or to carry on the proceedings therein, may apply to the Court to discharge such order within twelve days after such service; and any party being under any disability, other than coverture, who may be so served, may apply to the Court to discharge such order within twelve days after the appointment of a guardian or guardians *ad litem* for such party; and until such period of twelve days shall have expired such order shall have no force or effect as against such last-mentioned party.

*New Facts or Circumstances.*

XLIV. If the plaintiff in any cause which is not in such a state as to allow of an amendment being made in the bill shall desire to state or put in issue any facts or circumstances which may have occurred after the institution of the suit, he may state the same, and put the same in issue by filing in the Record and Writ Clerks' office a statement, either written or printed, to be annexed to the bill; and such proceedings by way of answer, evidence, and otherwise, are to be had and taken upon the statement so filed, as if the same were embodied in a supplemental bill: provided always, that the Court may make any Order which it shall think fit for accelerating the proceedings thereunder, or proceedings therein, in any manner which may appear just and practicable.

*Injunction.*

XLV. No injunction for stay of proceedings at law is to be granted as of course for default of appearance or answer to the bill.

*Power of Court.*

XLVI. The power of the Court to enlarge or abridge the time for doing any act or taking any proceedings in any cause or

matter, upon such, if any, terms as the justice of the case requires, is unaffected by these Orders.

*Commencement of Orders.*

XLVII. These orders shall take effect and come into operation on the second day of November, One thousand Eight hundred and Fifty-two.

*Interpretation.*

XLVIII. In these orders the following words have the several meanings hereby assigned to them, over and above their several ordinary meanings, unless there be something in the subject or context repugnant to such construction; viz.:

1. Words importing the singular number include the plural number, and words importing the plural number include the singular number.
2. Words importing the masculine gender include females.
3. The word "bill" includes "information."
4. The word "party" includes a body politic or corporate.
5. The word "affidavit" includes "affirmation."

ST. LEONARDS, C.  
JOHN ROMILLY, M. R.  
J. L. KNIGHT BRUCE, L. J.  
CRANWORTH, L. J.  
G. J. TURNER, V. C.  
RICHARD T. KINDERSLEY, V. C.  
JAMES PARKER, V. C.

SCHEDULE (A.).

*Table of Fees.*

	£	s.	d.
For instructions for bill . . . . .	1	14	0
For making a copy of a bill or claim for the printer, per folio . . . . .	0	0	4
For correcting the proof sheet, per folio . . . . .	0	0	2
For printer's bill (as paid), deducting any copies paid for by the defendant . . . . .			
For amending each copy of a bill or claim to serve where there is no reprint . . . . .	0	13	4

Instructions for brief to be allowed on a replication being filed, or on a motion for a decree on a bill, or in an injunction cause on moving for the injunction; but so that this fee shall be charged once only in the progress of a cause . . . . .	1	1	0
For amending each brief of a bill or claim where there is no reprint . . . . .	0	13	4
For perusing and considering the bill on behalf of each defendant, or set of defendants, appearing by the same solicitor . . . . .	1	1	0

---

SCHEDULE (B.).

---

*Form of Bill.*

In Chancery.

John Lee . . . . .	Plaintiff.
James Styles	} Defendants.
and	
Henry Jones	

*Bill of Complaint.*

To the Right Honourable Edward Burtenshaw, Baron St. Leonards, of Slaugham, in the County of Sussex, Lord High Chancellor of Great Britain,

Humbly complaining, sheweth unto his Lordship, John Lee, of Bedford Square, in the County of Middlesex, Esq., the above named plaintiff, as follows :—

1. The defendant James Styles, being seised in fee simple of a farm called Blackacre, in the parish of A. in the county of B., with the appurtenances, did, by an indenture dated the 1st of May, One thousand Eight hundred and Fifty, and made between the defendant James Styles of the one part, and the plaintiff of the other part, grant and convey the said farm with the appurtenances unto, and to the use of, the plaintiff, his heirs and assigns, subject to a proviso for redemption thereof, in case the defendant James Styles, his heirs, executors, administrators or assigns, should on the 1st of May, One thousand Eight hundred and Fifty-one, pay to the plaintiff, his executors, administrators, or assigns, the sum of Five thousand pounds, with interest thereon, at the rate of Five pounds per centum per annum, as by the said indenture will appear.



2. The whole of the said sum of Five thousand pounds, together with interest thereon at the rate aforesaid, is now due to the plaintiff.

3. The defendant, Henry Jones, claims to have some charge upon the farm and premises comprised in the said indenture of mortgage of the 1st of May, One thousand Eight hundred and Fifty, which charge is subsequent to the plaintiff's said mortgage.

4. The plaintiff has frequently applied to the defendants, James Styles and Henry Jones, and required them either to pay the said debt, or else to release the equity of redemption of the premises, but they have refused so to do.

5. The defendants, James Styles and Henry Jones, pretend that there are some other mortgages, charges or incumbrances affecting the premises, but they refuse to discover the particulars thereof.

6. There are divers valuable oak, elm, and other timber, and timber-like trees growing and standing on the farm and lands comprised in the said indenture of mortgage of the first of May, One thousand Eight hundred and Fifty, which trees and timber are a material part of the plaintiff's said security; and if the same or any of them were felled and taken away, the said mortgaged premises would be an insufficient security to the plaintiff for the money due thereon.

7. The defendant James Styles, who is in possession of the said farm, has marked for felling a large quantity of the said oak and elm-trees and other timber, and he has, by handbills, published on the Second December instant, announced the same for sale, and he threatens and intends forthwith to cut down and dispose of a considerable quantity of the said trees and timber on the said farm.

*Prayer.*

The plaintiff prays as follows :—

1. That an account may be taken of what is due for principal and interest on the said mortgage.
2. That the defendants, James Styles and Henry Jones, may be decreed to pay to the plaintiff the amount which shall be so found due, together with his costs of this suit, by a short day to be appointed for that purpose, or, in default thereof, that the defendants James Styles and Henry Jones, and all persons claiming under them, may be absolutely foreclosed of all right and equity of redemption in or to the said mortgaged premises.

3. That the defendant James Styles may be restrained by the injunction of this honourable Court from felling, cutting, or disposing of any of the timber or timber-like trees now standing or growing in or upon the said farm and premises comprised in the said indenture of mortgage, or any part thereof.
4. That the plaintiff may have such further or other relief as the nature of the case may require.

**Names of defendants.**

The defendants to this bill of complaint are,

James Styles,  
Henry Jones.

Y. Y.

(Name of Counsel.)

NOTE.—This bill is filed by Messrs. A. B. and C. D., of Lincoln's Inn, in the county of Middlesex, solicitors for the above-named plaintiff.

---

SCHEDULE (C.).

---

*Form of Interrogatories.*

In Chancery.

John Lee .	.	.	.	.	.	Plaintiff.
James Styles	}	.	.	.	.	Defendants.
and						
Henry Jones						

Interrogatories for the examination of the above-named defendants in answer to the plaintiff's bill of complaint.

1. Does not the defendant Henry Jones claim to have some charge upon the farm and premises comprised in the indenture of mortgage on the first of May, One thousand Eight hundred and Fifty, in the plaintiff's bill mentioned?

2. What are the particulars of such charge, if any, the date, nature and short effect of the security, and what is due thereon?

3. Are there or is there any other mortgages or mortgage, charges or charge, incumbrances or incumbrance, in any and what manner affecting the aforesaid premises, or any part thereof?

4. Set forth the particulars of such mortgages or mortgage, charges or charge, incumbrances or incumbrance; the date, nature, and short effect of the security; what is now due thereon; and who is or are entitled thereto respectively; and when and by whom, and in what manner, every such mortgage, charge, or incumbrance was created.

The defendant James Styles is required to answer all these interrogatories.

The defendant Henry Jones is required to answer the interrogatories numbered 1 and 2.

Y. Y.

(Name of Counsel.)

#### SCHEDULE (D.).

#### *Form of Answer.*

In Chancery.

John Lee .	.	.	.	.	.	Plaintiff.
James Styles	}	.	.	.	.	Defendants.
and						
Henry Jones						

The answer of James Styles, one of the above-named defendants, to the bill of complaint of the above-named plaintiff.

In answer to the said bill, I, James Styles, say as follows :—

1. I believe that the defendant, Henry Jones, does claim to have a charge upon the farm and premises comprised in the indenture of mortgage of the 1st of May, One thousand Eight hundred and Fifty, in the plaintiff's bill mentioned.

2. Such charge was created by and indenture date the 1st of November, One thousand Eight hundred and Fifty, made between myself of the one part, and the said defendant Henry Jones of the other part, whereby I granted and conveyed the said farm and premises, subject to the mortgage made by the said indenture of the 1st of May, One thousand Eight hundred and Fifty, unto the defendant Henry Jones, for securing the sum of two thousand pounds and interest at the rate of five pounds per centum per annum, and the amount due thereon is the said sum of two thousand pounds, with interest thereon, from the date of such mortgage.

3. To the best of my knowledge, remembrance, and belief there is not any other mortgage, charge, or incumbrance affecting the aforesaid premises.

M. N.  
(Name of Counsel.)

---

SCHEDULE (E.).

---

*Form of Summons.*

In Chancery.

In the matter of the estate of John Thomas, late of the parish of A., in the county of B., deceased.

Joseph Wilson  
against  
William Jackson.

Upon the application of Joseph Wilson, of Russell Square, in the county of Middlesex, Esq., who claims to be a creditor upon the estate of the above-named John Thomas, let William Jackson, the executor of the said John Thomas, attend at my chambers [in the Rolls Yard, Chancery Lane, Middlesex], [or at No. —, — square, Lincoln's Inn, Middlesex] on the — day of —, at — of the clock in the afternoon, and show cause, if he can, why an order for the administration of the personal estate of the said John Thomas, by the High Court of Chancery, should not be granted.

Dated the — day of — 1852.

JOHN ROMILLY, Master of the Rolls, or,  
G. J. TURNER, Vice-Chancellor, or,  
RICHD. T. KINDERSLEY, Vice-Chancellor, or,  
JAMES PARKER, Vice-Chancellor.

NOTE.—If the above-named William Jackson does not attend either in person or by his solicitor, at the time and place above-mentioned, such order will be made in his absence as the judge may think just and expedient.

This summons was taken out by A. and B., of Lincoln's Inn, in the county of Middlesex, solicitors for the above-named Joseph Wilson.



## INDEX.

---

### ABATEMENT,

- in case of, bill of revivor or supplemental bill shall not be necessary, 64.
- on allegation of, order may be obtained having the effect of a bill of revivor, 64.
- service of order of revivor, and effect thereof, 64.

### ACCOUNT,

- where required to be taken, court may give special directions as to mode of taking, 65.
- court may order that books of, shall be taken as *prima facie* evidence of the truth of their contents, 66.
- liberty to parties to object to books of, 66.
- now taken at Report Office to be discontinued, 100.
- office of clerk of, abolished, 100.

### ACCOUNTANT GENERAL,

- rights of, not to be affected, 86.
- to receive salary in lieu of brokerage, 95.
- general rights of, as Master, not to be affected under Relief Act, 95.
- salary of future, 95.
- clerks in office of, 101.

### ACT,

- of 3 & 4 Will. 4, c. 94, ss. 13, 14 and 15, repealed, 78.
- sect. 61 of, of 5 Vict. repealed, 94.

### ADMINISTRATOR,

- may be summoned to show cause why personal estate should not be administered to, 62.
- summons on, how to be stamped and served, 62.

### AFFIDAVIT,

- to be divided into numbered paragraphs, 58.
- paragraphs of, to be confined to distinct portions of the subject, 58.
- under what circumstances receivable at the hearing, when filed before issue joined, 33 Gen. Ord... 117.
- notice of intention to use, what to be given, 33 Gen. Ord... 117.
- notice of intention to cross-examine witness by, 34 Gen. Ord... 118.

**AFFIDAVIT**—*continued.*

re-examination of witness by, to follow his cross-examination,  
35 Gen. Ord...118.  
the word, to include "affirmation," 48 Gen. Ord...120.

**AFFIDAVIT OFFICE,**

duties of, by whom to be performed, 97.

**ALLOWANCE,**

for copying to cease, 89.

**AMENDMENT,**

provisions as to filing and serving printed copies of amended bill  
or claim, 57.

how far may be made by, without new engrossment, 51.

facts may be put in issue by, instead of by supplemental bill,  
65.

if cause not in state to allow of, plaintiff shall state such facts on  
the record, 65.

of bill, may be made on interleaved paper, 7 Gen. Ord...114.

of defendant's copy of, 8 Gen. Ord...114.

**ANSWER,**

may, together with reply to interrogatories, contain material  
statements, 52.

shall be divided into paragraphs, 52.

paragraphs of, shall be numbered consecutively, 52.

and contain distinct allegations, 52.

to be treated as affidavit on motion by plaintiff for decree, 53.

commission to take, within the jurisdiction, abolished, 54.

no formality in filing, other than on filing affidavit, 54.

alteration in, to be authenticated, 54.

of defendant on motion for injunction or receiver, to be regarded  
as affidavit, 67.

form of, for general adoption, 21 Gen. Ord...116, 124.

**APPEAL,**

deposits on, how to be paid, 101.

within what time to be set down for hearing, order of court,  
No. 1...111.

**AUCTION,**

sales by, when licence unnecessary, 101, 102.

indemnity in former cases of sale by, 102.

**BILL OF COMPLAINT,**

not to be engrossed on parchments, 49.

to be printed, 49.

form and effect of endorsement thereon, 50.

variations therein, 49.

stamps thereon, 49.

at what time to be stamped, 49.

printed, effect of filing of, 50.

how to be served on defendant, 50.

**BILL OF COMPLAINT**—*continued*.

- not necessary to produce original, 50.
- substitution of service of, 50.
- when written copy thereof may be filed, 50.
- personal undertaking of solicitor to file printed, within what number of days, 50.
- service of written copy of, 50.
- shall contain a concise narrative of material facts, 51.
- narrative of facts in, to be divided into paragraphs, 51.
- paragraphs in, to be numbered consecutively, 51.
- each paragraph in, to contain separate allegations, 51.
- shall pray specific and general relief, 51.
- shall not contain interrogatories, 51.
- when it may be dismissed for want of prosecutor, 56.
- examiners of witnesses to be furnished with copy of, 56.
- of Supplement,*
  - shall not be necessary, 64.
  - on what kind of paper to be printed, 1 Gen. Ord...113.
  - in what type, 1 Gen. Ord...113.
  - filed, to be interleaved, 1 Gen. Ord...113.
  - when written bill of, to be taken off the file, 3 Gen. Ord...113.
  - fees to solicitors, 4 Gen. Ord...113.
  - payment for printed copies of, what, 5 Gen. Ord...113.
  - not more than ten printed copies of, to be demanded by any defendant, 6 Gen. Ord...113.
  - copy of amended, on whom to be served, 9 Gen. Ord...114.
  - copy of amended, to be stamped before service, 9 Gen. Ord...114.
  - service of, when printed or partly printed and partly written, 10 Gen. Ord...114.
  - service of copy of, at the address of defendant, 11 Gen. Ord...114.
  - form of, subject to variations, 14 Gen. Ord...114, 121.

**BROKER,**

- regulations as to appointment of, 95.
- remuneration for services of, 95.

**BROKERAGE,**

- salary to be paid to Accountant General in lieu of, 95.

**BUSINESS IN CHAMBERS,**

- applications for time to plead, answer or demur, 76.
- leave to amend bills or claims, 76.
- for enlarging publication, 76.
- production of documents, 76.
- applications as to the conduct of suits, 76.
- guardianship and maintenance of infants, 76.
- management of property, 76.

**CHAFF-WAX,**

- office of, abolished, 95.
- deputy office of, abolished, 95.
- compensation to officers of, 105.



**CHIEF CLERKS,**

to receive full salaries as retiring pensions, 81.

**CHIEF CLERKS TO JUDGES,**

must have been chief clerks to Masters or solicitors of ten years practice, 74.

certain persons named to be the chief clerks of three of the judges, 75.

to hold office during good behaviour, 75.

to be under control and direction of judges, 75.

subject to same penalties as under 3 & 4 Will. 4, c. 9..76.

shall take accounts and make inquiries, 77.

but subject to right of suitor to bring any particular point before the judge, 77.

may issue advertisements, 77.

may summon parties, witnesses and administer oaths, 77.

may take affidavits and acknowledgments, 77.

and receive affirmations, 77.

may examine witnesses, 77.

shall certify result of proceedings before them, 77.

no exceptions to be taken to certificate of, 78.

certificate of, binding on parties, unless varied, 78.

salary of, 78.

pension to, in case of permanent infirmity, 81.

salaries of a, be paid quarterly, 81.

*Junior Clerks,*

to hold office during pleasure, 75.

to be under control and direction of judges, 75.

subject to same penalties as under 3 & 4 Will. 4, c. 9..76.

of Masters, compensation to, 47.

salaries of, 80.

pension to, in case of permanent infirmity, 81.

salaries of, to be paid quarterly, 81.

**CLAIM,**

not to be engrossed on parchment, 49.

to be printed, 49.

stamp thereon, 49.

at what time to be stamped, 49.

printed, effect of filing of, 50.

how to be served on defendant, 50.

not necessary to produce original, 50.

substitution of service of, 50.

**CLERK OF AFFIDAVITS,**

office of, abolished, 97.

office of deputy, abolished, 97.

of reports, office of, abolished, 97.

**CLERK OF TAXING MASTERS, 101.****CLERKS OF RECORDS AND WRITS,**

to file printed bills, 49.

**CLERKS OF RECORDS AND WRITS—continued.**

- to file printed claims, 49.
- to stamp bill of complaint or claim, 49.

**COMMISSION,**

- to take pleas, answers, &c., within the jurisdiction abolished, 54.

**COMPENSATION,**

- to officers for loss of emoluments under Relief Act, 102.
- under Relief Act, when and out of what fund to be paid, 106.

**CONVEYANCING COUNSEL,**

- must have been in practice for ten years, 80.

**COPIES OF DOCUMENTS,**

- regulation as to payment for, 89.

**COSTS,**

- when, of written bill may be allowed, 2 Gen. Ord. . . 113.
- of affidavits on motion for decree or decretal order, 25 Gen. Ord. 116.
- when to be paid by the plaintiff, 25 Gen. Ord. . . 116.

**COURT,**

- may order defendant to produce documents, 53.
- may order plaintiff to produce documents, 54.
- when application to, for production of, should be made, 54.
- may, on hearing of cause, require oral examination of witnesses or of party, 59.
- may order other than the original parties to be made parties in the suit, 60.
- may order persons beneficially interested in trusts to be made parties, 60.
- may proceed in suit without representative of deceased person, 61.
- may appoint representative of deceased person, 61.
- order of, shall bind estate of deceased person, 61.
- may order administration of estate on summons of creditor, 62.
- may grant special directions as to carriage of order in case of rival claimants, 62.
- may direct sale of mortgaged property instead of foreclosure, 63.
- may make binding declarations of right without granting consequential relief, 64.
- may decide between some of the parties without making others parties to the suit, 64.
- may order, at any time after institution of suit, and without a decree, real estate to be sold, 66.
- may allow parties part or the whole of annual income of property in litigation, 66.
- shall not send cases to law, 67.
- shall have full power to decide all legal questions between the parties, 67.

**COURT**—*continued.*

may determine legal title of party seeking relief, 67.  
 expenses attending the care of, &c., 107.  
 power of, to enlarge or abridge the time for proceedings not to be affected by the general orders, 46 Gen. Ord. . . 119.

**CREDITOR,**

may obtain order for administration of real estate, 63.  
 course of proceeding in such case the same as in case of personal estate, 63.

**DECREE,**

on motion for, court may refuse, grant or make order for further prosecution, 53.  
 what notice of motion for, or for a decretal order, 22 Gen. Ord. 116.  
 when affidavits grounding motion for, to be filed, 23 Gen. Ord. 116.  
 when answering affidavits in case of notice of motion for to be filed, 24 Gen. Ord. . . 116.  
 time of filing plaintiff's affidavits in reply in case of notice of motion for, 25 Gen. Ord. . . 116.  
 what matters plaintiff's affidavits in reply shall contain on motion for, 25 Gen. Ord. . . 116.  
 on motion for, how leave to be obtained for giving further evidence, 26 Gen. Ord. . . 116.  
 notice of motion for, how to be entered, 27 Gen. Ord. . . 116.  
 in what order motions for, to be heard, 27 Gen. Ord. . . 116.  
 within what time motion to add to, to be made, 40 Gen. Ord. . . 118.  
 memorandum of service of notice of, to be entered, 41 Gen. Ord. . . 119.  
 within what time to be inrolled, Ord. of Court 2. . 111.  
 how order for inrolling obtained after time expired, Ord. of Court 3. . 111.  
 caveat against inrolling, how entered, Ord. of Court 4. . 111.  
 shall not be inrolled after five years from date thereof, Ord. of Court 5. . 112.

**DEFENDANT,**

to be served with printed bill and claim, 49.  
 effect of service on, of printed bill or claim, 50.  
 mode of effecting service on, 50.  
 shall not put in answer to bill unless interrogatories be filed, 52.  
 nor unless copy of interrogatories be delivered, 52.  
 may plead, answer or demur, though plaintiff do not require answer, 52.  
 within what time plea, answer or demurrer may be put in by, 52.  
 when not to put in plea, &c. without leave of court, 52.  
 power of the court to grant further time to, 52.

**DECREE—continued.**

- when further time granted to, plaintiff's right to a decree suspended, 52.
- answer of, to bill, what it may contain, 52.
- may file interrogatories for examination of plaintiff, 53.
- what shall be prefixed thereto, 53.
- when a, may exhibit a cross bill of discovery, 54.

**DEPOSITIONS,**

- not to be taken down by way of question and answer, 57.
- to be in the form of a narrative, 57.
- to be read over to witness, 57.
- signing of, by witness, 57.
- in whose presence to be signed, 57.
- when, may be taken down by way of question or answer, 57.
- questions objected to be noticed on face of, 57.
- statement on face of, to be referred to by examiner, 57.
- irrelevant, costs of, how dealt with, 57.
- to be transmitted to record office of court, 58.

**DISCLAIMER,**

- commission to take, within the jurisdiction, abolished, 54.
- no formality on filing, other than on filing affidavit, 54.
- may be filed without oath of messenger, 55.
- how alterations in, to be authenticated, 54.

**DISMISSAL FOR WANT OF PROSECUTION,**

- when a defendant not required to answer may obtain for, 29 Gen. Ord...117.

**EVIDENCE,**

- at request of plaintiff to be adduced orally or by affidavit, 56.
- notice of request to be given by plaintiff, 56.
- consequence of not adducing, on affidavit at plaintiff's request, 56.
- may be taken orally if required, 56.
- party requiring oral, not having interest in question, 56.
- to be taken down in writing, though elected to be taken orally, 57.
- to be closed in accordance with general order, 58.
- no further, receivable after time for closing evidence expired, 58.
- when books of account shall be taken as *prima facie* evidence of the truth of their contents, 66.
- of office copies of proceedings in lunacy, 98.
- what notice to be given by plaintiff of the mode in which he shall desire it to be taken, 31 Gen. Ord...117.
- what description of, to be used in default of notice, 31 Gen. Ord. 117.
- at what time to be closed after issue joined, 32 Gen. Ord...117.
- cross-examination of witness after close of, 32 Gen. Ord...117.
- in suits where issue joined before the operation of the new orders, 39 Gen. Ord...118.
- in case of statement of new facts, 44 Gen. Ord...119.

D.

H

**EXAMINER,**

- to be furnished with copy of bill and answer, 57.
- shall not decide on materiality of question, 57.
- shall deal with witness refusing to be sworn as under the former practice, 57.
- shall take down questions objected to by witness, 58.
- and transmit same to record office, 58.
- shall transmit original depositions to record office of the court, 58.
- may administer oaths to witnesses, 57.

**EXCEPTIONS,**

- practice as to, for impertinence, abolished, 53.

**FEES,**

- payable by suitors in respect to chamber business not to exceed those now levied in respect to business in the Masters' offices, 79.
- to conveyancing counsel, accountants, &c., how regulated, 80.
- when to officers of the Court of Chancery to cease, 88.
- salaries to officers in lieu of, 88.
- direction of Lord Chancellor in respect thereof, 88.
- to be accounted for monthly, 88.
- taken by officers contrary to act, penalty, 89.
- for taking, how prosecuted, 89.
- in relation to proceedings may be varied, 89.
- to be collected by means of stamps, 90.
- in lunacy, power to Lord Chancellor to abolish, 92.
- per centage in lieu of, in lunacy, 92.
- per centage in lieu of, to be reported to parliament, 93.
- schedule of, 120.

**IMPERTINENCE.**

- costs occasioned by, to be paid by party introducing, 53.
- application to be made to court in case of, 53.
- at what time application for costs of, to be made, 39 Gen. Ord. 117.

**INFANTS,**

- authority in cases of suits by next friend of, 51.
- evidence on consent on the part of, 58.

**INFORMATION,**

- to be understood as included in the word "bill," 48 Gen. Ord. 120.

**INJUNCTION,**

- when written bill for, may be filed, 50.
- undertaking of solicitor to file printed, in such case, 50.
- practice of, to stay proceedings at law to be assimilated to practice as to special injunctions, 66.
- may be granted on interlocutory application, 67.
- to stay proceedings at law not to be granted as of course for default of appearance or answer, 45 Gen. Ord. 119.

**INTERROGATORIES,**

- under what circumstances, may be filed after answer for examination of plaintiff, 53.
- how court to be guided in determining materiality of answers to, 54.
- after time for filing of expired, none to be filed without leave of court, 20 Gen. Ord...115.
- form of, 15 Gen. Ord...115, 123.
- within what time to be filed, when answer required, 16 Gen. Ord. 115.
- delivery of copy of, when defendant appears, 17 Gen. Ord...115.
- delivery of copy of, when no appearance by defendant or his solicitor, 18 Gen. Ord...115.
- plea, answer, &c., to be filed within fourteen days of delivery of, 19 Gen. Ord...115.
- enlargement of time for pleading, &c., after delivery of copy of, 19 Gen. Ord...115.

**ISSUE,**

- how to be joined in suits commenced by bill, 55.

**LORD CHANCELLOR,**

- may order provisions as to printing or otherwise to be discontinued, 51.
- or suspended until further order, 51.
- may revive present practice as to filing bills and claims, 51.
- shall frame general order for closing time of taking evidence, 58.
- if he sees fit, may enlarge time, 58.
- shall make, with the assistance of the other judges, general rules and orders, 67.
- to make general orders for carrying Suitors' Relief Act into effect, 100.
- salary of, 93.
- power to, to remove any officer receiving other salary or accepting other employment, 75.
- may, with concurrence of judges, remove clerks, 76.
- may, with the assistance of the judges, make rules and orders for regulating proceedings at chambers, 79.
- may, with the same assistance, make orders as to fees and allowances, 79.
- may nominate six conveyancing counsel, 83.
- may appoint court keepers, 86.
- the retiring, may deliver a written judgment within six weeks after resignation, 86.
- when to enlarge time for a re-hearing an appeal, or an enrolment, Ord. of Court, 6...112.

**LUNACY,**

- jurisdiction under "Trustee Act" in cases of, 93.
- orders of court in, how to be entered, 98.

**LUNACY**—*continued*.

- registrar in, 98.
- office copies of proceedings in, to be stamped, 98.
- orders in, with respect to payments on transfer of stock, 98.
- certificates and reports of Masters in, how to be filed, 98.
- forging of signature of registrar in, 99.

**MARRIED WOMAN,**

- authority to sue as next friend of, 51.
- evidence of consent on the part of, 58.

**MASTER OF REPORTS AND ENTRIES,**

- to countersign cheques, &c., 99.
- to perform such other duties as the court may direct, 99.

**MASTER OF THE ROLLS, AND VICE-CHANCELLORS,**

- power to, as to sitting in chambers, 73.
- chambers, business of, to be carried on in conjunction with their court business, 73.
- Lord Chancellor to provide chambers for, 74.
- to have same power and jurisdiction as in open court, 74.
- orders of, made in chambers, to be drawn up by chief clerks, 74.
- power to, to direct orders to be drawn up by registrars, 74.
- when required by, registrars shall attend in chambers, 74.
- orders made at chambers by, to have same effect as orders of court, 74.
- power to, to appoint two chief clerks to each court, 74.
- power to, to fill vacancies in chief clerkship, 74.
- may appoint junior clerks, 75.
- power to, to adjourn from open court to chambers, and *vice versa*, 75.
- may direct what matters may be done by themselves, and what by their clerks, 77.
- to have the powers exercised by masters in ordinary, 78.
- may dispose of any cause or matter in open court, 78.
- may dispose of objection to opinion of conveyancing counsel in chambers or open court, 80.
- may obtain the assistance of accountants, merchants, &c., 80.

**MASTERS IN CHANCERY,**

- office of, abolished, 70.
- now in office, to act until released, 70.
- vacancies in office of, not to be filled up, 71.
- two of, to be released on the first day of next Michaelmas Term, 71.
- when state of business shall admit, the others to be released, 71.
- not to be released from attendance on the House of Lords, without order, 71.
- may work out any depending matter, if Lord Chancellor shall so desire, 71.
- shall have the option to retire according to seniority, 71.
- all, to be released when services no longer necessary, 71.

**MASTERS IN CHANCERY—continued.**

salaries and compensation allowance continued as retiring pensions, 71.  
 to be paid in same manner as present salaries, 72.  
 power to summon parties, &c. and wind-up proceedings, 72.  
 order of, to that effect, subject to be varied by the court, 72.  
 may proceed in the absence of parties neglecting to attend summons, 72.  
 on report of, court may order final disposal of suit, 72.  
 and for payment of costs, 72.  
 in default of parties bringing report of, before the court, solicitor to suitors' fund may do so, and provision as to costs, 72.  
 rights of, continued until released by act, 57, 88.  
 no fresh references to, except in cases already before them, and under Winding-up Act, 73.  
 provision as to proceedings pending before, on the first day of Michaelmas Terms next, 73.  
 powers reserved to, with respect to such proceedings, 73.  
 how to carry on business after the passing of the act, 79.  
 instead of communicating directly with the judge shall report to him, 79.  
 on appointment to office under the crown, how retiring pension to be regulated, 83.  
 offices of, in Southampton Buildings, to be disposed of, 83.

**MISJOINDER,**

suit not to be dismissed for, but court may modify its decree, 63.

**MORTGAGED PROPERTY,**

court may direct sale of instead of foreclosure, 63.  
 not to be sold at request of second incumbrancer or mortgagor, unless on certain conditions, 63.

**NE EXEAT REGNO,**

when written bill for writ of, may be filed, 50.  
 undertaking of solicitor to file printed bill for, in such case, 50.

**NEXT FRIEND,**

written authority given by, before name used in suit, aa, 51.

**NEW FACTS AND CIRCUMSTANCES,**

none to be put in issue, when not introduced by way of amendment of bill, 44 Gen. Ord. . . 119.  
 statement of, in such case to be annexed to the bill, 44 Gen. Ord. 119.  
 proceedings with respect to answer to statement of, 44 Gen. Ord. 119.

**OBJECTION,**

setting down cause on for, want of party, abolished, 60.  
 suit not to be open to, because a declaratory decree, &c. is sought for, 64.



**OFFICERS,**

certain, of Lord Chancellor, to be paid by salaries, 96.  
 retiring pensions to, 104.  
 time of paying salaries of, 105.

**OFFICES,**

certain, to be abolished, 95.  
 duties of, abolished, by whom to be performed, 95, 97.  
 payment to, whose offices are abolished, 103.

**ORDERS,**

general rules and, to be made by the Lord Chancellor, assisted  
 by the other judges, 67.  
 to be laid before parliament, 68.  
 under Relief Act may be varied, 100.  
 new, 110.  
 not to have a retrospective application, 12 Gen. Ord...114.  
 with reference to evidence, to apply to evidence taken subse-  
 quent to the hearing, 38 Gen. Ord...118.  
 not to affect the power of the court as to enlarging or abridging  
 time of proceedings, 46 Gen. Ord...119.  
 when to come into operation, 47 Gen. Ord...120.  
 of Court,  
   New—27th July, 1852...110;  
       28th „ „ 110;  
       7th August „ 111;  
       7th do. „ 112.  
       to take effect from the 28th of October, 1852...112.

**PARTY,**

the word to include a body politic or corporate, 48 Gen. Ord...  
 120.

**PARTIES,**

what notice of examination or cross-examination to be given to,  
 37 Gen. Ord...118.

**PARTIES AND NEW RULES,**

as to who should be made, 60.  
 as to residuary legatee, where there are other residuary legatees  
 or next of kin, 60.  
 as to legatee having charge on real estate, 60.  
 as to residuary devisee or heir, 60.  
 as to any one of several cestuis que trust, 60.  
 as to parties interested in property pending litigation, or in  
 cases of waste, 60.  
 as to executor, administrator, or trustee, 60.  
 necessary, according to the present practice, to be served with  
 notice of decree, 61.  
 shall have liberty to attend proceedings, 61.  
 may apply for leave to add to the decree, 61.

**PARTIES AND NEW RULES—continued.**

trustees in suits concerning real or personal estate, 61.  
 persons beneficially interested may, by order of court, be made,  
 61.  
 practice as to setting down cause on objection for want of, abo-  
 lished, 61.

**PARTIES AND WITNESSES,**

not attending to be examined, in pursuance of summons, liable  
 to process of contempt, 77.  
 may take opinion of judge on any point arising on chief clerk's  
 certificate, 78.  
 may object to opinion of conveyancing counsel, 80.

**PENALTIES FOR FALSE SWEARING, 77.**

**PATENTEE OF SUBPCENA,**

office of, abolished, 97.  
 office of, deputy of abolished, 97.

**PLAINTIFF,**

to deliver copies of printed bill or claim, 50.  
 rate of payment for, 50.  
 may, in suits commenced by bill, file interrogatories, 51.  
 shall deliver copies of interrogatories to defendant, 52.  
 after expiration of time for answering may move for decree, 52.  
 may file affidavits in support of motion for decree, 53.  
 bound to answer interrogatories filed by defendant, 53.

**PLEA,**

commission to take within jurisdiction abolished, 54.  
 may be filed as in case of affidavit, 54.  
 may be filed without oath of messenger, 55.

**PROCEEDINGS IN CHAMBERS,**

to be by summons, as at common law, 76.  
 result of, before chief clerk to be embodied in a short certificate,  
 77.  
 in Masters' offices, how henceforward to be conducted, 79.  
 power of judges in, to take opinion of conveyancing counsel in  
 certain matters, 80.

**POWERS,**

possessed by Masters to be exercised by judges, 78.  
 judges to exercise, given by 7th, 8th and 9th sections of the  
 act, 78.

**REAL ESTATE,**

pending litigation respecting a part or the whole of the annual  
 income may be allowed to parties, 66.

**RELATOR IN INFORMATION,**

authority to use name of, 51.  
 authority how and when filed, 51.

**RELIEF OF SUITORS' ACT, 87.**

**REPLICATION,**

where defendant not required to answer bill, to be filed as at present, 28 Gen. Ord...118.

**REVIVOR AND SUPPLEMENT,**

application to discharge order for, 43 Gen. Ord...119.

within what time to be made, 43 Gen. Ord...119.

order for, within how many days to have no effect against certain parties, 43 Gen. Ord...119.

**SALARIES,**

of judges, 93.

at what times payable, 94.

**SECRETARY,**

of Lord Chancellor, salary of, 96.

of presentations to account for fees, 96.

salary of, 96.

**SOLICITOR,**

any, appointed to office under Masters' Abolition Act, to be struck off the rolls, 75.

**STAMPS,**

stamp charges in lieu of fees, 89.

how to be collected, 90.

directions in respect of, by Commissioners of Inland Revenue, 90.

monies arising from, where to be paid in, 90.

sale and distribution of, 90.

certain officers to assist in sale of, 90.

may be sold by persons appointed by Commissioners of Inland Revenue, 90.

discount on sale of, 91.

allowance in case of, being spoiled, 91.

provisions of former acts relating to, continued, 91.

forgery of, 91.

no document to be received without one affixed, 91.

connivance in frauds relating thereto, 92.

**SUITORS' FEE FUND,**

provision in case of surplus or deficiency of, 108, 109.

**SUITORS' FUND,**

surplus of, to become part of Suitors' Fee Fund, 108.

**SUMMONS,**

form of, in administration proceedings, 42 Gen. Ord...119.

**TITLE,**

before sale of estate, abstract of, to be laid before conveyancing counsel, 66.

**VICE-CHANCELLOR,**

may be appointed as successor to Vice-Chancellor Turner, 84.

status of, 85.

**VICE-CHANCEOR**—*continued.*

officers and attendants to, 85.  
 salaries of officers, &c., 85.  
 retiring pension of, 85.

**WITNESS,**

present practice of examining, how far abolished, 54.  
 examined orally, before whom to be examined, 57.  
 examination of, how far public, 57.  
 oral, subject to cross-examination, 57.  
 how examination, &c., of, to be conducted, 57.  
 deposition of, how taken down and authenticated, 57.  
 refusing to be sworn, 57.  
 demurring to questions, 58.  
 costs occasioned by such demurrer or objection by, 58.  
 by affidavit, when subject to cross-examination, 59.  
 attendance of, for cross-examination, 59.  
 expenses of in such case, how provided for, 59.  
 costs of attendance of, when required by the court to be orally  
 examined, 59.  
 attendance of, before examiner may be required by any party in  
 the cause, 59.  
 what notice to be given to, of examination and cross-examina-  
 tion, 36 Gen. Ord...118. ❀

**WRIT,**

of subpoena to appear and answer abolished, 49.  
 of summons upon a claim abolished, 49.

**WRIT OF SUBPŒNA,**

issuing and serving, how far present practice continued, 13 Gen.  
 Ord...114.



7, FLEET STREET, LONDON.

## **Law Books**

PUBLISHED BY

**MESSRS. BUTTERWORTH,**

LAW BOOKSELLERS AND PUBLISHERS,

AND

**Publishers to the Public Record Department.**

---

### **Warren's Law of Elections and Registration.**

One thick volume, royal 12mo. 25s. cloth,

A MANUAL of the PARLIAMENTARY ELECTION LAW of the UNITED KINGDOM, containing the Statutes in force for England and Wales, Scotland and Ireland, down to the close of Parliament, chronologically arranged; with a Digest, also chronologically arranged, of all the Decisions of the Court of Common Pleas on Election Law, down to the present moment; together with a Practical Treatise on the Election Law of the United Kingdom, in its existing state, with reference to the Conduct of Elections, and the Registration Court; with a copious Index. By SAMUEL WARREN, Esq., F.R.S., one of Her Majesty's Counsel.

"We shall conclude this short notice of a work which appears to be executed with great care, by stating, that its practical utility is much increased by the introduction of a Digest of the Decisions of the Court of Common Pleas on Appeals from the Revising Barristers."—*The Jurist*.

"While the Author has faithfully stated all the existing enactments and decisions for the guidance of the several classes—whether professional, public, or official—who are interested in the subject; he has briefly and eloquently described the former state of the law, the objects of recent legislation, and the result of the changes which have been effected. We are satisfied that, whether as candidates or members, or as agents, solicitors or counsel, all who are interested in Elections that may probably or possibly be Contested, and who are engaged in the management thereof, will avail themselves of this invaluable volume."—*The Legal Observer*.

**May's Parliamentary Practice.—Second Edition.**

8vo., 21s. cloth.

**A PRACTICAL TREATISE on the LAW, PRIVILEGES, PROCEEDINGS and USAGE of PARLIAMENT.** By THOMAS ERSKINE MAY, Esq., of the Middle Temple, Barrister at Law; *one of the Examiners of Petitions for Private Bills, and Taxing Officer of the House of Commons.* Second Edition, revised and enlarged.

Contents:—Book I. Constitution, Powers and Privileges of Parliament. Book II. Practice and Proceedings in Parliament. Book III. The Manner of Passing Private Bills, showing the Practice in both Houses, with the latest Standing Orders, and the most recent Precedents.

“Accepted by the most competent judges as not only a work of learning and ability but a far more readable volume on the Law and Practice of Parliament than has yet issued from the Press. Neither the Author nor his patron (the Speaker) have had any reason to regret the pains bestowed on a production which appears to have been received with favour in every quarter over which the influence of the Parliament of England extends.”—*The Times*.

---

**O'Dowd on the New Chancery Procedure.**

In 12mo.

*(Dedicated, by permission, to the Right Hon. the Master of the Rolls.)*

**THE NEW PRACTICE of THE COURT of CHANCERY**, as regulated by the Acts for the Improvement of the Jurisdiction of Equity, 15 & 16 Vict. c. 86; for Abolishing the Office of Master, 15 & 16 Vict. c. 80; and for Relief of the Suitors, 15 & 16 Vict. c. 87; with Introduction, Notes, the Acts, and a copious Index. By JAMES O'DOWD, Esq., Barrister at Law.

**Oke's Magisterial Synopsis.—Third Edition.**

8vo., One Guinea, cloth.

**THE MAGISTERIAL SYNOPSIS**: comprising Summary Convictions and Indictable Offences, with their Penalties, Punishment, &c., and the Stages of Procedure, *tubularly arranged*; together with all other Proceedings before Justices out of Quarter Sessions: adapted practically throughout to the Provisions of Sir John Jervis's Acts, with Forms, Cases, Copious Notes and Observations, &c. Third Edition, enlarged and improved. By **GEORGE C. OKE**, Assistant Clerk to the Newmarket Bench of Justices, Author of "*The Magisterial Formulist*."

\*.\* In this Edition the Statutes and Cases, &c. are brought down to the close of the last Session, and references made in all cases to its *Companion*, "*Oke's Magisterial Formulist*," for the Forms to be used.

**Oke's Magisterial Formulist.**

8vo. 21s. cloth.

**The MAGISTERIAL FORMULIST**, being a Complete Collection of Forms and Precedents for practical use in all Matters out of Quarter Sessions, adapted to the Outlines of Forms in Jervis's Acts, 11 & 12 Vict. cc. 42, 43, with an Introduction, Explanatory Directions, Variations and Notes brought down to 12 & 13 Vict. By **GEORGE C. OKE**, Author of "*The Magisterial Synopsis*."

\*.\* *The above Work is intended as a Companion to "Oke's Magisterial Synopsis," and may be used with that or other Books of Magisterial Practice.*

"The same care pervades the present elaborate work as characterized the Author's earlier labours, and the utter uselessness of old forms since the passing of Jervis's Acts, render it of paramount utility."—*Britannia*.

**Questions on Mr. Serjeant Stephen's Commentaries.**

8vo. 10s. 6d. cloth.

**QUESTIONS for LAW STUDENTS on the SECOND EDITION of Mr. SERJEANT STEPHEN'S NEW COMMENTARIES on the LAWS of ENGLAND.** By **JAMES STEPHEN**, Esq., of the Middle Temple, Barrister-at-Law.



**Mr. Moore's Manuals for Country Attorneys, &c.**

12mo., 7s. 6d. cloth,

**The Solicitor's Book of Practical Forms**, containing an Abridgment of the Stamp Acts, and a variety of useful Forms and Instructions not to be found in the Text Books, but constantly required in Solicitors' Offices, especially with reference to Common Apprenticeships—Conditions of Sale—Contracts—Statutory Declarations—Powers of Attorney—and Wills,—and to the preparation of Annuity, Legacy, and Residuary Accounts,—and Applications for increase and return of Duties on Probates and Letters of Administration,—with numerous Variations, Schedules, and Tables showing the different Rates of Duty and the Amount from One Penny to £100. By HENRY MOORE, Esq.

---

12mo., 7s. cloth; or bound as a pocket book, 8s.,

**The Country Attorney's Pocket Remembrancer and Practical Man's Guide**: containing a Collection of useful Forms required by Country Attorneys, Land Agents, Surveyors, &c. upon a variety of occasions, when from home; with Practical Instructions for Deeds, Wills, &c. &c., and Variations adapting the Forms to almost every variety of circumstances; to which is added, a Collection of novel and useful Interest, Regal, and other Tables, designed by the Author exclusively for this and his other Works. Second Edition. By HENRY MOORE, Esq.

---

12mo., 6s. cloth,

**Instructions for preparing Abstracts of Titles**, after the most improved System of eminent Conveyancers; to which is added, a Collection of Precedents, showing the method—not only of abstracting every species of Deeds, but also of so connecting them together, by collateral Documents, as to form a complete Title. Second Edition, with considerable Additions. By HENRY MOORE, Esq.

**Baker's Law of Coroner.**

12mo., 14s. cloth.

A PRACTICAL COMPENDIUM of the RECENT STATUTES, CASES, and DECISIONS affecting the OFFICE of CORONER, with Precedents of Inquisitions, and Practical Forms. By WILLIAM BAKER, Esq., one of the Coroners for Middlesex.

**Emerigon on Marine Insurances.—By Meredith.**

Royal 8vo., 30s. boards.

A TREATISE on the LAW of MARINE INSURANCES. By BALTHAZARD MARIE EMERIGON. Translated from the French, with an Introduction and Notes. By SAMUEL MEREDITH, Esq.

"This Treatise on Insurances by Emerigon is not merely a book on French Law, but a Code of universal law recognized in every civilized community. The Translation is admirably done, and reflects great credit upon Mr. Meredith."—*Law Times*.

"We think the profession is much indebted to Mr. Meredith for his able translation of that eminent author (Emerigon)."—*Legal Observer*.

"The publisher and translator are both entitled to praise for having provided the profession with a most useful authority in the most convenient form. No insurance lawyer will neglect to become possessor of this edition of Emerigon."—*Standard*.

**Oke's Solicitors' Book-Keeping.**

8vo. 5s. cloth.

AN IMPROVED SYSTEM of SOLICITORS' BOOK-KEEPING, practically exemplified by a Year's supposed Business, with Directions for Posting, Balancing, Checking, &c. Adapted to small, moderate and large Offices; to Partnership and Sole Concerns. By GEORGE C. OKE, Author of "*The Magisterial Synopsis*," and "*The Magisterial Formula*."

"Mr. Oke has rendered great service to the profession in compiling the above admirably arranged work. The value and necessity of such a work as this to Solicitors is obvious, and we predict for it a speedy sale."—*Law Magazine*.

"This is a clever and extremely useful treatise. Such a work is of the highest value to Solicitors."—*Morning Herald*.

"To the Practitioner we would recommend its purchase, and if he will follow out its instructions, he will, we are sure, always consider that the trifling cost of the book was the best money he ever laid out."—*Legal Practitioner*.

\* \* \* Sets of SOLICITORS' ACCOUNT BOOKS, prepared upon Mr. OKE's Plan, with the proper Headings, &c., and of various degrees of thickness, may be obtained at the Publishers.

**Scriven on Copyholds.—Fourth Edit.—By Stalman.**

Two Vols. royal 8vo. 2l. 10s. boards.

A TREATISE on COPYHOLD, CUSTOMARY FREEHOLD, and ANCIENT DEMESNE TENURE; with the Jurisdiction of Courts Baron and Courts Leet. Also an Appendix containing Rules for holding Customary Courts, Courts Baron, and Courts Leet; Forms of Court Rolls, Deputations, and Copyhold Assurances, and Extracts from the relative Acts of Parliament. By JOHN SCRIVEN, Serjeant at Law. The FOURTH EDITION, embracing all the authorities to the present period, by HENRY STALMAN, Esq. of the Inner Temple, Barrister at Law.

\*.\* A SUPPLEMENT to the above Work is in preparation, including all the late Cases on Copyholds, together with the New Copyhold Enfranchisement Act of 1852.

**Keyser on the Law of the Stock Exchange.**

12mo., 8s. cloth,

THE LAW relating to TRANSACTIONS on the STOCK EXCHANGE. By HENRY KEYSER, Esq., of the Middle Temple, Barrister at Law.

"A compact exposition of the Law relating to the Funds and to the Stock Exchange, useful alike to the public and to the practitioner."—*Spectator*.

"This work has been performed in a clear and distinct manner, no work of a similar kind is in existence."—*Bell's Messenger*.

"Of Mr. Keyser's book, as a work of reference, we are enabled to speak in unqualified terms."—*Britannia*.

**Wills on Circumstantial Evidence.—Third Edition.**

8vo., 9s. boards.

AN ESSAY on the PRINCIPLES of CIRCUMSTANTIAL EVIDENCE, illustrated by Numerous Cases. THIRD EDITION. By WILLIAM WILLS, Esq.

"I have read this Essay thoroughly, and with great satisfaction, it is written strongly and elegantly, with conclusive evidence of much research and profound reflection."—*The late Chancellor Kent*.

## Grant's Law of Corporations in General.

Royal 8vo., 26s. boards.

**A PRACTICAL TREATISE on THE LAW of CORPORATIONS in GENERAL, as well Aggregate as Sole.**

### INCLUDING

Municipal Corporations,  
Railway, Banking, Canal and  
other Joint-Stock and Trading  
Bodies,  
Dean and Chapters,  
Universities,  
Colleges,  
Schools,  
Hospitals,

with  
*Quasi* Corporations aggregate, as  
Guardians of the Poor, Church-  
wardens, Churchwardens and  
Overseers, etc.,  
and also  
Corporations sole, as Bishops,  
Deans, Canons, Archdeacons,  
Parsons, etc.

By JAMES GRANT, Esq., of the Middle Temple, Barrister at Law.

"We think the arrangement happy. Another feature in Mr. Grant's book is the honesty with which it has been compiled."—*Law Magazine*.

"The object has evidently been to render the work practically useful to persons in any way, as Officers or Members, connected with any Corporation; and we think that object is eminently answered. Vast research and diligence are displayed in the execution."—*The Times*.

## Montagu and Ayrton's Bankrupt Law.

SECOND EDITION.

Two closely printed Vols., 8vo.,

**MONTAGU and AYRTON'S LAW and PRACTICE in BANKRUPTCY, as altered by the recent Statutes, Orders and Decisions; containing Forms, Precedents, and Practical Directions in Bankruptcy, with New Tables of Costs, &c. &c. The SECOND EDITION. By JOHN HERBERT KOE, Esq. one of her Majesty's Counsel, and SAMUEL MILLER, Esq. Barrister at Law.**

**Ayckbourn's New Chancery Practice.—Third Edition.**

12mo. 16s. boards.

The **NEW CHANCERY PRACTICE**, comprising all the Alterations effected by the Recent Orders and Statutes; with Practical Directions, a Copious Selection of the Modern Cases, and an Appendix of Forms. By **HUBERT AYCKBOURN**. **THIRD EDITION**, enlarged and carefully revised. By **THOMAS H. AYCKBOURN, Esq.**, of the Middle Temple, Barrister-at-Law, and **HUBERT AYCKBOURN**.

"That which Archbold is to Common Law Practice, Ayckbourn is to that of Chancery. The one work is quite as indispensable as the other."—*Law Mag.*

"The work is now the completest Handbook of Chancery Practice which the profession possesses."—*Law Times*.

**Questions on Ayckbourn's Chancery Practice.**

12mo. 6s. boards.

**QUESTIONS for LAW STUDENTS** on the **THIRD EDITION** of **AYCKBOURN'S NEW CHANCERY PRACTICE**. By **JOHN SWITHINBANK**, Solicitor in Chancery.

**Pulling on the Laws of London.—Second Edition.**

8vo. 18s. boards.

A **PRACTICAL TREATISE** on the **LAWS, CUSTOMS, USAGES and REGULATIONS** of the **CITY and PORT of LONDON**, with Notes of the various Charters, By-Laws, Statutes, and Judicial Decisions by which they are established. **SECOND EDITION**, with considerable Additions, and a **SUPPLEMENT** containing the **LONDON CORPORATION REFORM Act, 1849**, and the **City Election Act, 1725**, with Introductory Comments, Explanatory Notes, and the Statutes verbatim. By **ALEXANDER PULLING, Esq.**, of the Inner Temple, Barrister at Law.

\*.\* The **SUPPLEMENT** may be had separately, price 1s. 6d. sewed.

**Browne on Actions at Law.**

8vo., 16s. boards.

**A PRACTICAL TREATISE on ACTIONS at LAW**, embracing the subjects of Notice of Action; Limitation of Actions; necessary Parties to and proper Forms of Actions, the Consequence of Mistake therein; and the Law of Costs with reference to Damages. By ROWLAND JAY BROWNE, Esq., of Lincoln's Inn, Special Pleader.

"The most copious and most recent information is furnished upon every subject of which he proposes to treat, and the Work, which is eminently useful to Common Law practitioners in all situations, is indispensable at Nisi Prius.—*Times*.

---

**Law Student's Guide.**

12mo. 6s. boards.

**THE LAW STUDENT'S GUIDE**; containing an Historical Treatise on each of the Inns of Court, with their Rules and Customs respecting Admission, Keeping Terms, Call to the Bar, Chambers, &c., Remarks on the Jurisdiction of the Benchers, Observations on the Study of the Law, and other useful Information. By P. B. LEIGH, Esq., of Gray's Inn, Barrister at Law.

---

**Sewell's Sheriff and Under-Sheriff.**

8vo., 1l. 1s. boards.

**A TREATISE on the LAW of SHERIFF**, with Practical Forms and Precedents. By RICHARD CLARKE SEWELL, Esq., D.C.L., Barrister at Law, Fellow of Magdalen College, Oxford.

**Pulling's Law of Joint Stock Companies' Accounts.**

12mo. 3s. 6d. boards.

'The LAW of JOINT STOCK COMPANIES' ACCOUNTS, and the Legal Regulations for their Adjustment in Proceedings at Common Law, in Equity and Bankruptcy, and under the Winding-up Acts of 1848 and 1849, intended as an Accompaniment to the "Law of Mercantile Accounts." By ALEXANDER PULLING, Esq., of the Inner Temple, Barrister at Law.

"Not to Lawyers only, but to the Directors and Shareholders of Companies, we strongly recommend this book as an accompaniment to their mercantile accounts."—*Star*.

**Pulling's Law of Mercantile Accounts.**

12mo. 9s. boards.

A PRACTICAL COMPENDIUM of the LAW and USAGE of MERCANTILE ACCOUNTS; describing the various Rules of Law affecting them, the ordinary Mode in which they are entered in Account Books, and the various Forms of Proceeding, and Rules of Pleading, and Evidence for their Investigation, at Common Law, in Equity, Bankruptcy and Insolvency, or by Arbitration. With a SUPPLEMENT, containing the Law of Joint Stock Companies' Accounts, under the Winding-up Acts of 1848 and 1849. By ALEXANDER PULLING, Esq. of the Inner Temple, Barrister at Law.

"Within a very small compass it combines all the rules of law regarding accounts, with the practice of merchants as to the mode of entering them in their books."—*Law Magazine*.

"Mr. Pulling's volume recommends itself to the profession by the excellence of the arrangement, the diligence with which the law has been collected from so many scattered sources, and the perspicuous manner in which the author expresses himself."—*Law Times*.

**Leigh's Nisi Prius.**

2 vols. 8vo. 2l. 8s. boards.

**An ABRIDGMENT of the LAW of NISI PRIUS.**

By P. B. LEIGH, Esq., Barrister at Law. Author of "A Treatise on the Poor Laws," &c.

**Archer's Index to Unrepealed Statutes.**

8vo., 5s. boards.

An INDEX to the UNREPEALED STATUTES connected with the Administration of the Law in England and Wales, commencing with the Reign of William the Fourth and continued up to the close of the Session 1850. By THOMAS G. ARCHER, Solicitor.

"A laborious work whose utility is apparent from its title."—*Law Times*.

"A great desideratum to all those whose professional avocations or judicial functions impose on them the necessity of a frequent reference to the Statute Book. We have tested the work, and find it perfectly accurate."—*Legal Observer*.

---

**Davis's County Courts Evidence.**

12mo. 8s. boards.

A MANUAL of the LAW of EVIDENCE on the Trial of Actions and other Proceedings in the New County Courts. By JAMES EDWARD DAVIS, Esq., of the Middle Temple, Barrister at Law.

"It appears to be a useful and well-arranged manual."—*Law Magazine*.

"A volume like the present appeared to be requisite in lieu of the ponderous work of Selwyn, Starkie, and Phillips. In this 'Hand-Book for the County Courts' the materials have been well arranged and concisely stated, and we doubt not it will be found a very useful book for the practitioner."—*Legal Observer*.

---

**Bainbridge on Mines and Minerals.**

8vo. 16s. boards.

A PRACTICAL TREATISE on the LAW of MINES and MINERALS; comprising a detailed account of the respective Rights, Interests, Duties, Liabilities and Remedies of Landowners, Adventurers, Agents and Workmen; and of the Local Customs of Derbyshire, Cornwall and Devon. With an Appendix of Legal Forms, relating to Grants, Leases, Transfers, Partnerships and Criminal Proceedings. By WILLIAM BAINBRIDGE, Esq., Barrister at Law.



**Hertslet's Commercial Treaties.**

Vols. 1 to 8, 8vo. 8l. 5s. boards,

A Complete Collection of the TREATIES and CONVENTIONS, and RECIPROCAL REGULATIONS, at present subsisting between GREAT BRITAIN and FOREIGN POWERS, and of the Laws, Decrees, and Orders in Council concerning the same, so far as they relate to Commerce and Navigation, Slave Trade, Post Office Communications, Copyright, &c., and to the Privileges and Interests of the Subjects of the High Contracting Parties; compiled from Authentic Documents. By LEWIS HERTSLET, Esq., Librarian and Keeper of the Papers, Foreign Office.

---

**Cooke's Insolvent Practice.—Second Edition.**

8vo. 16s. boards.

A TREATISE upon the LAW and PRACTICE of the COURT for RELIEF of INSOLVENT DEBTORS: with an Appendix, containing all the Acts of Parliament, Rules of Court, Forms, Tables of Costs, &c. The SECOND EDITION, much enlarged. By EDWARD COOKE, Esq., Barrister at Law.

---

**BURCHELL and KENNEDY'S****Joint Stock Companies Registration Act.**

18mo., 3s. 6d. boards.

An ACT (7 & 8 Vict. c. 110,) for the REGISTRATION, INCORPORATION and REGULATION of JOINT STOCK COMPANIES; with Preface and Index by JAMES BURCHELL, Esq., and an Analysis by CHARLES RANN KENNEDY, Esq., Barrister at Law.

---

**Gael on Drawing Legal Instruments.**

8vo. 10s. cloth.

A PRACTICAL TREATISE on the ANALOGY between LEGAL and GENERAL COMPOSITION, intended as an Introduction to the drawing of Legal Instruments, Public and Private. By S. H. GAEL, Esq. Barrister at Law.

**Farren's Forms of Original Bill.**

2s. 6d. boards.

The COMMON FORMS and RULES for Drawing an ORIGINAL BILL in CHANCERY, as directed by the New Orders of Court, and Reported Cases. Carefully collected by G. FARREN, jun., Esq., Chancery Barrister.

"The Work has been very carefully compiled, and displays the industry, research, and skill in arrangement, for which Mr. Farren is distinguished."—*Legal Observer*.

**Coote's Ecclesiastical Practice.**

One thick Vol. 8vo. 28s. boards.

The PRACTICE of the ECCLESIASTICAL COURTS, with Forms and Tables of Costs. By HENRY CHARLES COOTE, Proctor in Doctors' Commons, &c.

"This is a well timed and well executed publication. A more acceptable compilation, to country solicitors especially, it is difficult to conceive."—*Morning Chronicle*.

"Ecclesiastical Practice is now for the first time made the subject of a formal and elaborate treatise. The principles reviewed have been before illustrated by Clerke, Conset and Oughton, and the latter introduced some Precedents; but these have become wholly obsolete and useless, and it has remained for Mr. Coote, by a combination of industry and experience, to give to the Profession a work which has been long wanted, but which so few are competent to supply."—*Law Times*.

**Kennedy's Code of Chancery Practice.**

12mo. 10s. 6d. boards,

The CODE of PRACTICE of the HIGH COURT of CHANCERY, containing a Brief History of the Jurisdiction and Practice of the Court; a Chronological Table of all the Statutes relating to the Court, and useful in Practice, showing by what Enactments they have been repealed and altered; also a Chronological Table of General Orders and the General Orders from the year 1814 to the present time; with a copious Index. By THOMAS KENNEDY, a Solicitor of the Court.

**Butterworth's General Law Catalogue.**

12mo. 2s. cloth, gratis to Purchasers,

A GENERAL CATALOGUE of LAW BOOKS, including all the Reports; intended as a Guide to Purchasers. By MESSRS. BUTTERWORTH. "Per ardua, Deo favente."

**House of Lords Reports.**

REPORTS of CASES decided in the HOUSE of LORDS on Appeals and Writs of Error, Claims of Peerage and Divorces. By CHARLES CLARK, Esq., of the Middle Temple, Barrister at Law. (*By appointment of the House of Lords.*)

Vols. I. and II., and Vol. III. Parts I. and II., containing Cases decided from February, 1847, to August, 1852.

(*These Reports will be regularly continued.*)

---

**Dr. Robinson's New Admiralty Reports.**

REPORTS of CASES argued and determined in the HIGH COURT of ADMIRALTY, commencing with the Judgments of the Right Honourable Stephen Lushington, D.C.L. By WILLIAM ROBINSON, D.C.L. Advocate.

Vols. I. and II., and Vol. III. Parts I. and II. containing Cases decided from Michaelmas Term, 1833, to Trinity Vacation, 1850. 4l. 7s. 6d. sewed.

(*These Reports are in immediate continuation of DR. HAGGARD'S, and will be regularly continued.*)

---

**Cooper's Chancery Cases and Dicta.**

*Published occasionally, in Numbers,*

CHANCERY CASES and DICTA, and NOTES from MSS., Ancient and Modern, with occasional Remarks; and Chancery Miscellanies. By CHARLES PURTON COOPER, Esq., one of her Majesty's Counsel.

Nos. I. to V. are now published, price 6d. each, sewed.

**FONBLANQUE'S****Reports in the Commissioners' Courts of Bankruptcy.**

REPORTS of CASES adjudicated in the SEVERAL COURTS of the COMMISSIONERS in BANKRUPTCY, under the Bankrupt Law Consolidation Act, 1849. By J. W. M. FONBLANQUE, Esq., of the Middle Temple, Barrister at Law.

"The original jurisdiction in Bankruptcy having, under the 'Bankrupt Law Consolidation Act,' been transferred from the Courts of Chancery to those of the Commissioners in Bankruptcy, these Reports have been commenced, as a Collection of Decisions under that Statute. It is intended they shall consist of Selected Cases involving important points of Law and Practice. Each Number will contain a copious and thoroughly practical Index of Matters, and it is hoped the publication will prove a useful Companion to all Works on the Law and Practice in Bankruptcy."

Vol. I. Parts I. & II. containing Cases decided from 1849 to 1851. 11s. sewed.

*(These Reports will be regularly continued.)*

---

**Notes of Cases in the Ecclesiastical and Maritime Courts.**

This Work contains carefully digested Reports of all Cases of importance in the Arches Court of Canterbury, the High Court of Admiralty, the Prerogative Court of Canterbury, the Court of Peculiars of Canterbury, the Consistorial Courts of London and other Dioceses, the Court of Surrogates, the Dean and Chapter and Archidiaconal Courts, the Admiralty Court of the Cinque Ports, the Court of the Master of the Faculties, &c., together with the Decisions of the Judicial Committee of the Privy Council on Appeal from the Superior Courts of both Provinces, and from the Court of Admiralty.

Now complete in Seven Volumes, including all the Cases decided in the several above-named Courts from Easter Term, 1841, to Trinity Term, 1850.

*(Any of the Volumes or Parts may be purchased separately.)*

### Public Records.

**Ancient Laws and Institutes of England;** comprising Laws enacted under the Anglo-Saxon Kings from Æthelbert to Cnut, with an English Translation of the Saxon; the Laws called Edward the Confessor's; the Laws of William the Conqueror, and those ascribed to Henry the First; also, *Monumenta Ecclesiastica Anglicana*, from the Seventh to the Tenth Century; and the Ancient Latin Version of the Anglo-Saxon Laws. With a compendious Glossary, &c. Folio, price 2*l.*; or in 2 vols. royal 8vo. 1*l.* 10*s.*

**Ancient Laws and Institutes of Wales;** comprising Laws supposed to be enacted by Howel the Good, modified by subsequent Regulations under the Native Princes prior to the Conquest by Edward the First; and Anomalous Laws, consisting principally of Institutions which by the Statute of Ruddlan were admitted to continue in Force: with an English Translation of the Welsh Text. To which are added a few Latin Transcripts, containing Digests of the Welsh Laws, principally of the Dimetian Code. With Indexes and Glossary. Folio, 2*l.* 4*s.*; or in 2 vols. royal 8vo. 1*l.* 16*s.*

(Dedicated, by permission, to the Queen's most Excellent Majesty.)

***Monumenta Historica Britannica, or Materials*** for the History of Britain from the earliest period down to the Norman Conquest. Prepared and illustrated with notes by the late HENRY PETRIE, Esq., F.S.A., Keeper of the Records in the Tower of London, assisted by the Rev. JOHN SHARPE, B.A., Rector of Castle Eaton, Wilts. Finally completed for publication, and with an Introduction, by THOMAS DUFFUS HARDY, Assistant Keeper of Records. (Printed by command of Her Majesty.) Folio, Two Guineas.

"Sir Robert Inglis remarked, that this work had been pronounced by one of our most competent collegiate authorities to be the finest work published in Europe."—*Proceedings in Parliament, March 11th, 1850.*

**A Descriptive Catalogue of Record Works,** published under the Authority of the Commissioners upon the Public Records, now on Sale by Messrs. BUTTERWORTH, Publishers to the Public Record Department. 8vo. 6*d.* sewed.

**Liber Munerum Publicorum Hiberniæ**, ab an. 1152, usque ad 1827: or the Establishments of Ireland from the 19th of King Stephen to the 7th of George the 4th, during a period of 675 years. Being the Report of Rowley Lascelles, of the Middle Temple, Barrister at Law. Extracted from the Records and other Authorities, by Special Command, pursuant to an Address, An. 1810, of the Commons of the United Kingdom. Two vols. Folio, 2l. 2s.

**History of the Government Offices. Notes of Materials for the History of Public Departments.** Demy folio, 10s.

"It is remarkable that there should not exist in the language any complete account of the different Public Offices, the heads of which compose the Executive Government of the country."—*Companion to the British Almanac for 1847.*

**The Acts of the Parliament of Scotland.** Vol. I. An. Dom. 1124—1423. (*Printed by command of Her Majesty.*) Folio, 2l. 2s.

**Acta Dominorum Concilii.**

**The Acts of the Lords of Council in Civil Causes.** A.D. 1478—1495. Folio, 10s. 6d.

**Acta Dominorum Auditorum.**

**The Acts of the Lords of Council in Civil Causes.** A.D. 1466—1494. Folio, 10s. 6d.

(Dedicated, by permission, to Lord LANGDALE.)

**A Catalogue of the Lords Chancellors, Keepers of the Great Seal, Masters of the Rolls, and principal Officers of the High Court of Chancery; with Notes and References to the Authorities.** By THOMAS DUFFUS HARDY, Assistant Keeper of Records. Royal 8vo. 20s. (*Only 250 copies printed.*)

"The use of this volume will be obvious to all inquirers in the History of the Court of Chancery, and it will be most helpful in general investigations, affording the means of identifying dates with great precision."—*Law Magazine.*

### PREPARING FOR PUBLICATION.

#### The LAW and PRACTICE of ELECTION COMMITTEES.

By SAMUEL WARREN, Esq., F.R.S., one of her Majesty's Counsel. In royal 12mo.

(Messrs. BUTTERWORTH, in answer to daily inquiries, beg to state, that this important Department of Election Law, forming the Unpublished Portion of Mr. WARREN's MANUAL of PARLIAMENTARY ELECTION LAW, will be published very shortly; the Author, having found it necessary to consider with great care all the *Decisions of Committees* during the last ten years, and even previously, in order to state with accuracy, for strictly practical purposes, the existing remodelled System for adjudicating upon Election Petitions, was compelled to delay the publication of it till after the General Election.)

The NEW SYSTEM of PLEADING and PRACTICE in the SUPERIOR COURTS of COMMON LAW, according to the Common Law Procedure Act, 1852, with a copious Index and Extracts from the Report of the Common Law Commissioners. By HENRY HOLROYD, of the Middle Temple, Special Pleader. In 12mo.

STEPHEN'S COMMENTARIES.—Third Edition. NEW COMMENTARIES on the LAWS of ENGLAND, in which are interwoven, under a new and original arrangement of the general subject, all such parts of the Work of Blackstone as are applicable to the present times; together with full but compendious Expositions of the modern improvements of the Law up to the close of last Session; the original and adopted Materials being throughout the Work typographically distinguished from each other. By HENRY JOHN STEPHEN, Serjeant at Law. THIRD EDITION, prepared for the press by JAMES STEPHEN, Esq., of the Middle Temple, Barrister at Law, and Professor of Law in King's College, London. In 4 vols. 8vo.

CRABB'S CONVEYANCING.—Fourth Edition. A COMPLETE SERIES of PRECEDENTS in CONVEYANCING, with Common and Commercial Forms, in Alphabetical Order, adapted to the present State of the Law and Practice of Conveyancing, with copious Prefaces, Observations and Notes on the several Deeds. To which are added, the latest Real Property Acts; with Notes, and the Decisions thereon. By GEORGE CRABB, Esq., Barrister at Law. The FOURTH EDITION, with very considerable Additions and Improvements, bringing the whole subject down to the date of publication, by JAMES TRAILL CHRISTIE, Esq., of the Middle Temple, Barrister at Law. In 2 vols. royal 8vo.

The RECENT ACTS for amending the PRACTICE and Course of PROCEEDING of the COURT of CHANCERY—for abolishing the Office of Master, and for Relief of the Suitors; with analytical Table of Contents, and Notes; intended as a Supplement to "THE CODE OF CHANCERY PRACTICE," which contains all the Orders of the Court from the year 1814 to the present time,—or as a separate Work. By T. KENNEDY, a Solicitor of the Court. The ORDERS for carrying out the Acts will be added as soon as they are issued, with an Index. In 12mo.

PREPARING FOR PUBLICATION—*continued.*

**A MANUAL for COPYHOLD ENFRANCHISEMENT** under the ACT of 1852, with Notes, Practical Directions, and all the late Cases on Copyholds since the publication of the Fourth Edition of Mr. Serjt. Scriven's Work, forming either a Supplement to that Book or a distinct Manual for the purposes of the Enfranchisement of Copyholds. By HENRY STALMAN, Esq., Barrister at Law (the Editor of "Scriven on Copyholds.") In 8vo.

**The NEW LAW and PRACTICE in BANKRUPTCY** under the Bankrupt Law Consolidation Act of 1849, with the Rules of Court, all the Decisions, and an Appendix of Statutes and Forms. By P. H. EDLIN, Esquire, of the Middle Temple, Barrister at Law. In 12mo.

**JERWOOD'S DISSERTATION on the RIGHTS to the SEA SHORES and to the SOIL and BED of TIDAL HARBOURS and NAVIGABLE RIVERS.** The Second Edition, corrected and enlarged. In 8vo.

**The PRACTICE of the COMMON LAW COURTS,** with Forms. By JAMES STEPHEN, Esq., of the Middle Temple, Barrister at Law. In 8vo.

•• This Work, which has been in active preparation for a considerable period, and which will form a *condensed* but *comprehensive* Book of Practice for Students and Practitioners of the Common Law, will be published uniformly with "Mr. Serjeant Stephen's New Commentaries," and "Stephen's Questions."

**HERTSLET'S Complete Collection of COMMERCIAL TREATIES and CONVENTIONS, &c. between Great Britain and Foreign Powers.** The NINTH VOLUME.

**SHELFORD'S LAW OF RAILWAYS.** The THIRD EDITION.

**HOUSE OF LORDS REPORTS.** Vol. III. Part III.

**ROBINSON'S NEW ADMIRALTY REPORTS,** Vol. III. Part II.

**FONBLANQUE'S NEW REPORTS of CASES adjudicated in the Several COURTS of the COMMISSIONERS in BANKRUPTCY,** under the Bankrupt Law Consolidation Act, 1849, Vol. I. Part III.

**COOPER'S CHANCERY CASES and DICTA.** No. V.

**The LAW MAGAZINE, or QUARTERLY REVIEW of JURISPRUDENCE,** for NOVEMBER (No. 27, O.S., No. 33, N.S.)



THE  
**Law Magazine.**

OR

**QUARTERLY REVIEW OF JURISPRUDENCE.****Commenced in 1828,**

*And regularly published on the First of the Months of February, May, August, and November, in each Year, at Six Shillings a Number.*

This well-established LAW PERIODICAL is recommended to the Profession by

1. ARTICLES on all subjects of prominent interest and practical usefulness to Practitioners. Among the Contributors are Judges, and many Lawyers of eminence.
2. NOTES of all LEADING CASES, explaining their practical effect.
3. A QUARTERLY ALPHABETICAL DIGEST of *all* Cases in all Superior Courts of Law and Equity, &c. carefully classed and indexed.
4. STATUTES useful to the Profession, carefully abstracted and noted.
5. REVIEWS, or SHORT NOTES of New Law Books of value, and LIST of ALL NEW LAW PUBLICATIONS.
6. EVENTS of THE QUARTER, comprising Rules of Court, Calls, Promotions, Obituary, &c.
7. PARLIAMENTARY PAPERS of value, abstracted.

\* \* \* The LAW MAGAZINE thus affords a mass of information essential to the Practitioner at a cost of 24s. per annum, which can be obtained from no other publication *at less than double that price.*

*The Number for August (No. 96 Old Ser., No. 32 New Ser.), is just published.*

## CONTENTS:

- |  |  |
|--|--|
| 1. The Sale of Reversionary Interests.                   | 8. The New Equity Acts—Evidence in Chancery.                     |
| 2. On Secret Examination of Witnesses.                   | 9. The Enfranchisement of Copyholds.                             |
| 3. A Chapter of Discussions on County Court Matters.     | 10. The Annual Report of the Law Amendment Society.              |
| 4. Warren's Parliamentary Election Law.                  | 11. Notes of Leading Cases.                                      |
| 5. Oxford University Commission.                         | 12. Events of the Quarter.                                       |
| 6. Cromwell's Statutes.                                  | 13. List of New Publications.                                    |
| 7. Reports of the General Board of Health on Quarantine. | 14. Index of Public General Statutes passed in the late Session. |
|  | 15. Digest of Cases, &c.   |

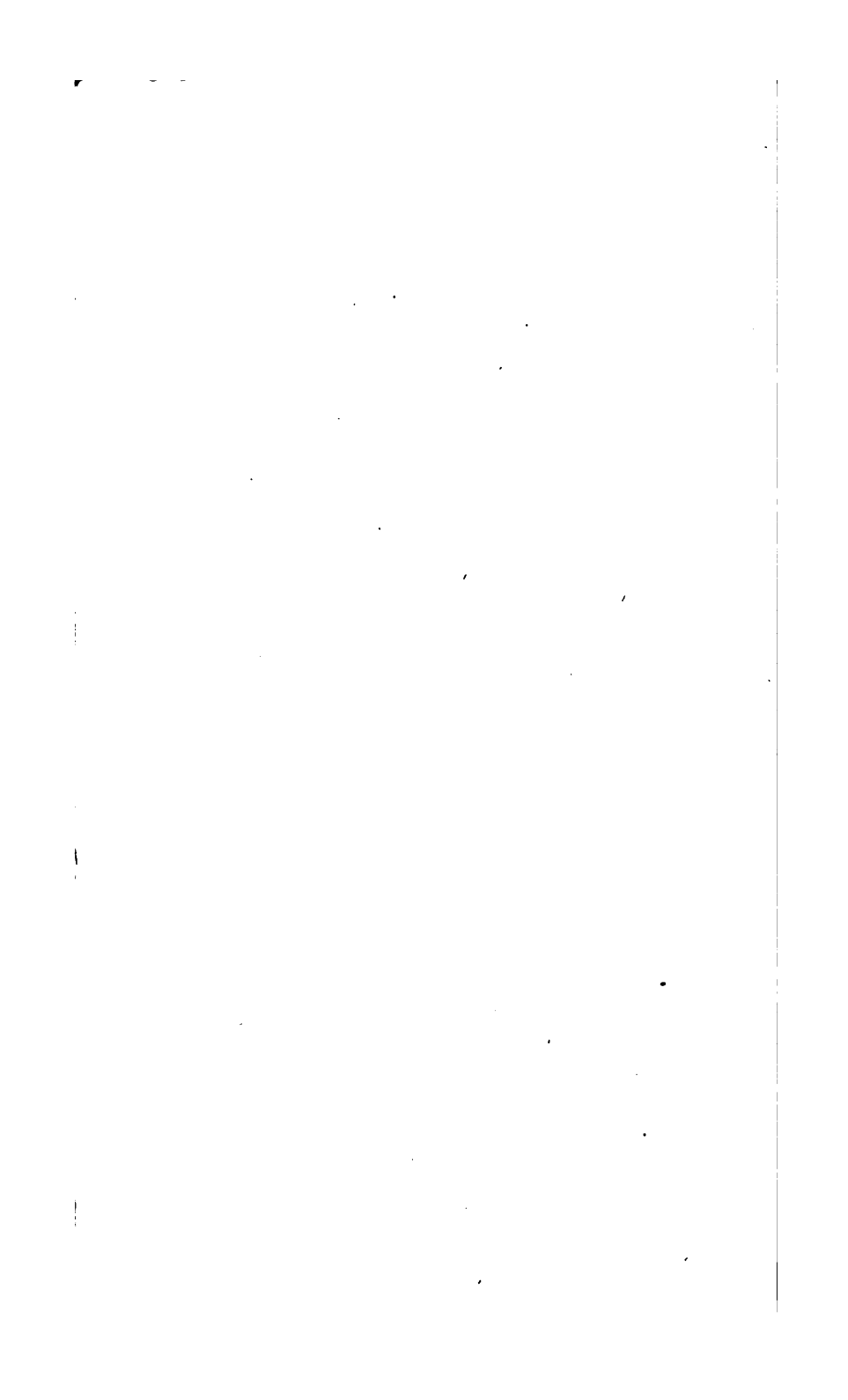
BUTTERWORTHS, Law Booksellers and Publishers, 7, FLEET STREET,

*By whom Subscribers' Names will be received, and by all Booksellers.*

\* \* \* A Subscription of 24s., if paid in advance to the Publishers, will ensure the delivery of the Law Magazine on the day of publication, *postage free*, in any part of the United Kingdom, for the space of One Year.

*(Communications for the Editors may be addressed, under cover, to the Publishers.)*







THE  
NEW PRACTICE  
OF  
THE COURT OF CHANCERY,  
AS REGULATED  
BY THE ACTS

*For the Improvement of the Jurisdiction of Equity,*  
15 & 16 VICT. c. 86;

*For Abolishing the Office of Master,*  
15 & 16 VICT. c. 80;

*For Relief of the Suitors,*  
15 & 16 VICT. c. 87;

AND  
*The General Orders of Court;*

WITH  
*INTRODUCTION, NOTES, THE ACTS,*  
THE NEW GENERAL ORDERS,

AND  
A COPIOUS INDEX.

---

By JAMES O'DOWD, ESQ.,

BARRISTER AT LAW.

---

LONDON:  
BUTTERWORTHS, 7, FLEET STREET,  
Law Booksellers and Publishers.

1852.